

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 233

BERNHARD DEUTCH, PETITIONER,

vs.

UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR CERTIORARI FILED JULY 13, 1960
CERTIORARI GRANTED OCTOBER 10, 1960

ERRATA

By inadvertence the following pages of the transcript of record were erroneously printed. These pages were never admitted or offered into evidence but were merely part of certain documents from which excerpts were admitted as government's Exhibit 1 and government's Exhibit 2.

Material to be deleted: pages 41 to 191, inclusive, pages 195 to 268, inclusive, and the material preceding the words "Government's Exhibit 3" on page 269.

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[fol. 1]

**DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF COLUMBIA**

CASE CLOSED

UNITED STATES

vs.

BERNHARD DEUTCH

U.S. Attorneys:

Edmund D. Campbell
Henry W. Sawyer
George Herbert Goodrich
607 Ring Bldg.

12-3-54

G.J. No. Orig.

CRIMINAL No. 1152-'54

Charge:

Vio. Title 2 U.S. Code
Sec. 192

Bond:

500.00 Cash
1. ~~\$1000.00~~ 4944 Rubicam St.
Phila. 44, Pa.

CRIMINAL DOCKET

DATE

PROCEEDINGS

1934

- Nov. 22 Presentment and Indictment filed (5 Counts)
- Nov. 22 Bond fixed by the Court in the sum of \$1000.00.
KIRKLAND, J.
- Dec. 3 **ARRAIGNED**, Plea **NOT GUILTY** entered;
Deft. given 10 days to file appropriate motions;
Deft. committed to the District of Columbia
Jail. Commitment Issued.

DATE

PROCEEDINGS

Appearance of Edmund D. Campbell, 822 Southern Bldg., and Henry W. Sawyer, III, 111 So. 17th St., Phila. Pa. Attorneys Edmund D. Campbell and Henry W. Sawyer, III present.

LAWS, C.J. (Reporter-Powell) Cert. filed.

Dec. 3 CASH RECOGNIZANCE in the sum of \$1000.00 deposited by the Defendant in lieu of Surety, filed.

Dec. 13 Motion of deft. to dismiss, filed. Cert. of Serv.
1955

Feb. 11 Brief for defendant sur Motion to dismiss, filed;
Motion of defendant to dismiss the indictment argued and denied;

Oral Motion of defendant for a reduction of Cash Bond from \$1000.00 to \$500.00 argued and granted.

Attorneys Henry Sawyer, III and George Goodrich present;

McLAUGHLIN, J. (Reporter-Minier) Cert. filed.

Feb. 11 Appearance of George Herbert Goodrich entered.

Feb. 16 ORDER that the Clerk of the Court refund forthwith to Bernhard Deutch, 4944 Rubicam Street, Philadelphia, Pa., the sum of \$500.00, filed. McLAUGHLIN, J.

Feb. 25 Memorandum of Court granting motions for continuances until further notice, filed. LAWS, C.J.

[fol. 2]

Jun. 1 \$500.00 returned to Bernhard Deutch pursuant to order of Court filed February 16, 1955.

Sep. 30 Motion to reconsider defendant's Motion to dismiss, filed.

DATE

PROCEEDINGS

Oct. 11 ORDER denying motion of deft. to reconsider motion to dismiss. McLAUGHLIN, J. (N)

Nov. 4 ORDER dismissing indictment and continuing deft. on his personal cash bond of Five Hundred Dollars (\$500.00) until 2-1-56 or until further order of the Court, filed.

Appearance of Henry Sawyer entered and filed;
Attorneys George H. Goodrich and Henry Sawyer present.

KIRKLAND, J. (Reported-MacReynolds)

Nov. 25 NOTICE OF APPEAL from order of 11-4-55, dismissing the indictment filed by the UNITED STATES Attorney.

No Charge.

Dec. 14 DESIGNATION of RECORD, filed. Cert. of Serv.

Dec. 22 Additional Designation of record, filed. Cert. of Serv.

Dec. 27 TRANSCRIPT OF PROCEEDINGS:

Pages 1-39, November 4, 1955, filed.

(D.A.'s Copy) (Reporter-MacReynolds)

1956

Jan. 4 Record on Appeal delivered to the U. S. Court of Appeals for Leo A. Rover. (Clerk's Fee \$3.35 —U. S. No Charge)

Aug. 13 Certified copy of JUDGMENT of the U. S. COURT of APPEALS for the District of Columbia Circuit REVERSING the order of the District Court appealed from and REMANDING the case to the District Court for FURTHER PROCEEDINGS NOT INCONSISTENT with the OPINION of the U. S. COURT of APPEALS, FILED. dated—July 26, 1956.

DATE

PROCEEDINGS

Nov. 14 Certified copy of Judgment of the United States Court of Appeals for the District of Columbia Circuit REVERSING the Order of the United States District Court, PRESENTED. LAWS, C.J.

Dec. 5 MOTION of defendant for continuance of trial date, filed.

Memorandum in support of motion, filed.

Memorandum of Government in opposition to motion for continuance, filed.

Motion of deft. for continuance heard and denied;

Attorney George Herbert Goodrich present.

LAWS, C.J. (Reporter-I. Watson) Cert. filed.

[fol. 3]

Dec. 11 With consent of U. S. Attorney and approval of Court, defendant waives right to trial by jury; Waiver of trial by jury filed.

TRIAL BY COURT BEGUN:

Case RESPITED until to-morrow morning;

Deft. ON BOND:

Attorney Henry Sawyer and George H. Goodrich present.

HOLTZOFF, J. (Reporter-J. Rawls) Cert. filed.

Dec. 12 TRIAL BY COURT RESUMED:

FINDING: Deft. Guilty on Counts One, Two, Four and Five;

Not Guilty on Count Three;

Deft. permitted to remain ON BOND pending sentence; (Not referred)

Attorneys Henry Sawyer, III and George H. Goodrich present.

HOLTZOFF, J. (Reporter-J. Rawls) Cert. filed.

DATE

PROCEEDINGS

Dec. 13 SENTENCED to imprisonment for a period of Ninety (90) days and to PAY a FINE of One Hundred Dollars (\$100.00);

Deft. permitted to remain on the SAME BOND PENDING APPEAL on CONDITION defendant files an appeal promptly.

Attorneys Henry Sawyer, III and George H. Goodrich present.

HOLTZOFF, J. (Reporter-J. Rawls) J.J.

Dec. 14 Judgment & Commitment of 12-13-56, filed. HOLTZOFF, J.

Dec. 20 NOTICE OF APPEAL, filed.

Clerk's Fee \$5.00 paid and credited to the United States.

1957

Jan. 4 OPINION OF THE COURT, filed. (Court finds deft. Guilty on Counts 1, 2, 4 & 5 and not Guilty on Count three 12-12-56.) HOLTZOFF, J.

Jan. 8 Application of defendant for leave to proceed on appeal without prepayment of costs and be furnished the stenographic transcript of proceedings at the expense of the United States with Affidavit of Defendant in support thereof, GRANTED and filed. HOLTZOFF, J. (Notice of Appeal filed 12-20-56)

Feb. 7 Certified copy of Order from the U. S. Court of Appeals for the District of Columbia Circuit EXTENDING the TIME for filing the record on appeal TO and INCLUDING February 28, 1957, filed. Dated 2-6-57.

Feb. 8 TRANSCRIPT OF PROCEEDINGS, Vol. 1, Pages 1-131, Tuesday, December 11, 1956 and Wednesday, December 12, 1956, filed.

(File Copy) (Reporter-Frye)

DATE

PROCEEDINGS

Feb. 13 DESIGNATION of RECORD, filed. Cert. of Serv.

[fol. 3a]

Feb. 18 COUNTERDESIGNATION OF RECORD, filed. Cert. of Serv.

Feb. 19 ORDER directing the Clerk to transmit to the U. S. Court of Appeals for the District of Columbia Circuit in the original form all exhibits in this case which have been designated as part of the record, filed. McGUIRE, J.

[fol. 4]

[File endorsement omitted]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

(Grand Jury Impaneled on September 30,
1954, and Sworn in on October 5, 1954)

Criminal No. 1152-'54

Grand Jury Original
(2 U.S.C. 192)

UNITED STATES OF AMERICA

v.

BERNHARD DEUTCH

INDICTMENT—Filed November 22, 1954

The Grand Jury charges:

INTRODUCTION

On April 12, 1954, in the District of Columbia, a subcommittee of the Committee on Un-American Activities of the House of Representatives was conducting hearings, pursuant to Public Law 601, Section 121, 79th Congress, 2d Session, (60 Stat. 828), and to H. Res. 5, 83d Congress.

Defendant, Bernhard Deutch, appeared as a witness before that subcommittee, at the place and on the date above stated, and was asked questions which were pertinent to the question then under inquiry. Then and there the defendant unlawfully refused to answer those pertinent questions. The allegations of this introduction are adopted and incorporated into the counts of this indictment which follow, each of which counts will in addition merely describe the question which was asked of the defendant and which he refused to answer.

COUNT ONE

The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party. Will you tell us who that member of the faculty was?

COUNT TWO

Will you tell the committee, please, the source of that \$100 contribution, if it was made?

COUNT THREE

Where were these meetings held?

[fol. 5]

COUNT FOUR

Were you acquainted with Homer Owen?

COUNT FIVE

The witness is directed to give the name of the person by whom he was approached.

/s/ Leo A. Rover
United States Attorney in and
for the District of Columbia

A TRUE BILL:

/s/ WILSON T. M. BEALE
Foreman.

[fol. 6]

[File endorsement omitted]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[Title omitted]

PLEA OF DEFENDANT—December 3, 1954

On this 3rd day of December, 1954, the defendant Bernard Deutch, appearing in proper person and by his attorney David Rein, Esq., being arraigned in open Court upon the indictment, the substance of the charge being stated to him, pleads Not Guilty thereto.

The defendant is committed to the District jail.

By direction of

Bolitha J. Laws
Presiding Judge
Criminal Court # Assign.

HARRY M. HULL, Clerk

By /s/ JOHN N. HESS
Deputy Clerk

Present:

United States Attorney

By Al Stevas

Assistant United States Attorney

Powell
Official Reporter

[fol. 7]

[File endorsement omitted]

UNITED STATES)
 vs.) Criminal No. 1152-54
 BERNARD DEUTCH)

Contempt of Congress—2 U.S.C. 192

MOTION TO DISMISS THE INDICTMENT
 —Filed February 11, 1955

The indictment is in five counts, each setting forth a question which Defendant refused to answer before a Subcommittee of the House Un American Activities Committee. The present motion is based on the following grounds:

1. The enabling legislation is unconstitutional in that it violates the First Amendment.
2. Questions violated the First Amendment, therefore Defendant was not obliged to answer.
3. Questions were not pertinent to the inquiry.
4. Refusal to answer was not willful.

1. The question of the constitutionality of the enabling legislation has been passed in *Barsky v. U. S.* 83 App. D. C. 127, *Lawson v. U. S.* 85 App. D. C. 167. *Josephson v. U. S.* 165 F 2d 82 (2nd Circuit), in all these cases it was held the enabling legislation did not violate the First Amendment. Certiorari was denied by the Supreme Court in all these cases.

2. In the Barsky case it was held that the Committee had authority to ask a question even though its answer would admit belief in Communism or membership in the Communist Party. In *Lawson v. U. S.* it was held that the Committee or a Subcommittee thereof "has the power to inquire whether a witness subpoenaed by it is or is not a member of the Communist Party or a believer in Communism and that this power carries with it necessarily the power to effect [fol. 8] criminal punishment for failure or refusal to answer that question under 2 U.S.C. Sec. 192.

3. Pertinent, as used to describe a requisite for valid Congressional inquiry, means pertinent to a subject matter under inquiry, not generally pertinent to the person under investigation. *Rumly v. U. S.* 90 App. D.C. 382. Pertinency is established if the answers requested relate to a legislative purpose which Congress could constitutionally entertain, and if the answers fall within the grant of authority made by Congress to the Committee. *U. S. v. Ormon*, 207 F 2d 148, (3rd Circuit)

4. In *U. S. v. Josephson*, 165 F 2d 82, the 2nd Circuit Court of Appeals held at page 86:

"That is to say, a refusal to answer any question pertinent to any matter under inquiry is a violation of the second branch of the statute as much when the refusal is 'willful' as when it is not."

[fol. 9]

[File endorsement omitted]

[Title omitted]

ORDER DENYING MOTION TO DISMISS—Filed
February 11, 1955

On this 11th day of February, 1955, came the attorney of the United States; the defendant in proper person and by his attorneys, Henry Sawyer and George Goodrich, Esquire; whereupon the defendant's motion to dismiss the indictment and the oral motion for a reduction of Cash Bond from \$1,000.00 to \$500.00 dollars, each coming on to be heard, after argument by counsel, the motion to dismiss the indictment is by the Court denied and the motion (oral) to reduce the Cash Bond from \$1,000.00 to \$500.00 is by the Court granted.

By direction of
Charles F. McLaughlin
Presiding Judge
Criminal Court # 1

HARRY M. HULL, Clerk
By /s/ DANIEL J. MENCOBONI
Deputy Clerk

Present:

United States Attorney

By William Hitz

Assistant United States Attorney

Ralph E. Minier

Official Reporter

[fol. 10]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1152-54

UNITED STATES OF AMERICA

v.

BERNHARD DEUTCH

Excerpts From Transcript of Testimony
—December 12, 1956

Washington, D. C.,
Wednesday, December 12, 1956.

The trial in the above-entitled cause was resumed before
Honorable Alexander Holtzoff, United States District
Judge, at 10 o'clock a. m.

APPEARANCES:

On behalf of the United States of America:

William Hitz:

On behalf of the Defendant:

George Herbert Goodrich,
of Washington, D. C.,

and

Henry W. Sawyer III,
of Philadelphia, Pa.

[fol. 11]

STIPULATION RE EXHIBITS

Mr. Hitz: Your Honor, there is a stipulation I would like to read to the Court which will dispense with the introduction of what otherwise would be six formal exhibits by the Government.

The Court: Very well.

Mr. Hitz: The stipulation relates to the Subcommittee's sitting on the particular day in question.

May I read this into the record?

The Court: If you please.

Mr. Hitz (reading): "April 12, 1954, in Washington, D. C., the defendant appeared before a duly authorized and appointed subcommittee of the House Committee on Un-American Activities comprised of Congressmen Jackson (Chairman), Scherer, and Doyle, pursuant to Section 121 of the Legislative Reorganization Act of 1946 (60 Stat. 828)."

Continuing the quote of the stipulation:

"After the testimony of the defendant the matter of the alleged contempt of defendant was duly reported to the [fol. 12] House of Representatives and certified by it to the United States Attorney."

That is the end of the stipulation.

Is that stipulated, Mr. Sawyer?

Mr. Sawyer: That is stipulated, your Honor.

• • • • •

[fol. 13] FRANK S. TAVENNER, JR. was called as a witness for and on behalf of the United States and, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Hitz:

Q. Mr. Tavenner, will you give your full name, please sir?

A. Frank S. Tavenner, Jr.

Q. Your occupation, sir?

A. Counsel for the Committee on Un-American Activities for the House of Representatives.

Q. How long have you been its counsel, sir?

A. Since May 1, 1949.

Q. Did you have duties, Mr. Tavenner, on the Committee staff with respect to those hearings of the Committee which were conducted in Albany, New York?

A. Yes, sir, I did.

Q. In what years were those hearings conducted?

A. The hearings were conducted there in July of 1953 and in April of 1954.

[fol. 14] Q. Were you the interrogating attorney for the Committee in those hearings?

A. I was.

Q. Did you assist in the preparation of the investigation which led to those hearings?

A. Yes, I did.

Q. Did you engage in conferences with the Committee concerning those investigations?

A. Yes, sir.

Q. Were you present at the time that Mr. Deutch testified before the Committee in 1954?

A. I was.

Q. On what date did he appear, sir?

A. April 12, 1954.

Q. Was that in Washington, D. C.?

A. Yes, sir.

Q. Now, Mr. Tavenner, if you will refer to Government's Exhibit No. 5; which is printed as "Education Number 8," you will find in there, will you not, the testimony of Mr. Deutch?

A. Yes, sir.

Q. In April 1954. That is the testimony concerning which this alleged contempt was committed; is that right, sir?

A. Yes, sir.

Q. We note, Mr. Tavenner, that it is entitled "Com-[fol. 15] munist Methods of Infiltration (Education—Part 8)."

A. Yes, sir.

Q. The other prints, Committee prints, of the so-called Albany investigation were entitled in one way or another "Albany" Parts whatever part it was.

Was there a connection between Mr. Deutch's testimony, which has been printed in "Education—8" and the geographical area testimony and hearings entitled "Albany, New York"?

A. Yes, sir.

Mr. Sawyer: I object to that, your Honor.

The Court: Objection overruled.

By Mr. Hitz:

Q. How does it happen that Mr. Deutch's testimony appears in "Education—8" if it was a part actually of "Albany"?

A. Well, the staff in the releasing of this testimony at a later date placed it for convenience under the heading of Education.

Q. What connection was there between it and the investigations entitled "Albany, New York"?

Mr. Sawyer: Objection.

The Court: You may answer.

By Mr. Hitz:

Q. Would you care to go to Albany—1 and to commence your answer?

[fol. 16] A. Very well, sir.

Q. Will you do that and give us the date you are speaking of and what immediately led to Albany—1?

A. The Committee—

Mr. Sawyer: I object to this question, your Honor.

The Court: Beg pardon?

Mr. Sawyer: I say I object to this question.

The Court: Please do not keep objecting all the time. Do not be so technical.

Mr. Sawyer: Your Honor, this is not technical in the sense—

The Court: No, this is technical.

Will you gentlemen come to the bench.

(At Bench Conference:)

The Court: If you are going to practice law here and you are welcome to do it, you have got to practice on the level in which we generally do, that is the better members of our bar do.

These little technical objections are just fly specks. I do not decide the merits of a case on objections to evidence.

Now, if the evidence has no probative value the time to raise it is when you sum up the case.

Mr. Sawyer: Yes, sir, but how may I—I want to con-[fol. 17] form with your practice, sir. I do not want to jump up. How may I protect the record to show that this evidence—that I want to object to it as being totally unconnected with this defendant?

The Court: You do not have to object for that purpose. You can argue that in your final argument and if it is not connected with the defendant, it will not be considered.

Mr. Sawyer: Yes, sir, but how do I protect myself on the record, sir?

The Court: Well, that is the way to protect yourself.

This is a case being tried before a judge as the trier of the facts, and if any evidence is not connected, of course I shall not consider it and you can argue that, but do not keep jumping up and objecting to every question.

Now, if you object to one question and it opens up to a line of inquiry, and I have ruled on it, you do not have to keep repeating an objection to every question after that.

Mr. Sawyer: I have no wish to. Could we do this, your Honor: do I understand that my objection now is to any testimony from this witness as to any investigations in the Albany area, as to any investigations or reports or con-[fol. 18] siderations by the Committee which this witness is not competent to testify to?

The Court: Objection overruled.

Mr. Sawyer: Then I won't have to jump up.

The Court: I cannot decide the case until after I take the evidence and I don't decide cases on objections to evidence.

(Discussion held off the record)

Mr. Sawyer: My objection goes to the relevancy and competency of this witness to testify to the Committee's intent, and that is a continuing objection.

The Court: No, no question has been asked him about the Committee's intent and you will have to wait until the question is asked.

Mr. Sawyer: Well, what was in the Committee's purpose then.

The Court: I just wanted to explain my view that I do not pass upon the merits of the case in the shape of ruling on objections to evidence.

(In Open Court:)

The Court: You may proceed.

By Mr. Hitz:

Q. Mr. Tavenner, I think you had stated in effect that the title of this print was a matter of editing by the staff, and then you were explaining in what fashion the testimony [fol. 19] money and the hearing at which Mr. Deutch appeared stemmed or did not stem from the Albany hearings, and you were going back to Albany—1. Will you continue?

A. Yes. The Committee, after a preliminary investigation, determined that it would conduct area hearings at Albany and in Michigan, in San Diego, in Los Angeles, Seattle, Chicago, and several other places.

As a result, this hearing was instigated in the City of Albany in July of 1953. During the course of the testimony there, in fact the testimony of a man by the name of James Davis, information came out regarding a phase of Communist activities in that area which the Committee had not thoroughly investigated, and it restricted his testimony to matters other than that particular thing, and it was announced then during those hearings that the Committee would continue its investigation and return to Albany for further hearings.

That investigation continued from the end of that hearing in July, 1953, until August 7, 1953, and then in the last meeting of the executive meeting of the Committee in that year, which was held on November the 13th, the Committee determined that it would conduct hearings at the beginning of 1954.

Again in the area of Albany and adjacent territory.

That hearing was delayed, for reasons that are probably [fol. 20] not necessary to go into, and was not held until April the 7th.

On March the 22nd the same members of this subcommittee—

The Court: Well, what is the pending question?

Mr. Hitz: I think he has covered it. The connection between these— Well no, perhaps, he has not quite covered that.

The Witness: On March the 22nd this same subcommittee, each of the members of this subcommittee, met in Washington and conferred with a witness by the name of Richardson. At that time it was learned from him that a member of the faculty at Cornell was a member of the Communist Party and assisted the Communist Party group.

The Court: Now, of course, the Court is taking this evidence not as proof of the facts but merely as proof tending to show relevancy of this particular inquiry.

Mr. Hitz: Oh yes.

The Court: And solely for that limited purpose.

Mr. Hitz: That is why it is being offered; yes, sir.

By Mr. Hitz:

Q. May I interrupt just enough to ask you to place the location of Cornell within a particular area?

A. Yes, sir. Cornell is located at, Ithaca, which is a short [fol. 21] distance from the City of Albany.

Q. Thank you, sir.

A. The Committee learned on March 22nd that there was only one member of the Communist Party group within the student body of Cornell who knew of the identity of that professor at the university, and the name of that individual was given us at that time as the name of the witness that was called on the 12th, Mr. Deutch.

Q. That is the defendant here?

A. The defendant here. But we did not know of the whereabouts of the witness.

Q. Again you speak of Deutch, do you?

A. Yes, Mr. Deutch.

On Sunday before the hearings began in Albany, which would have made it April the 6th, we learned from our investigation of his address, and as a result of that the following day Mr. Deutch was subpoenaed to appear at the Albany hearings on the 9th of April.

Q. Where was Mr. Deutch located, sir?

A. Mr. Deutch at that time was at the University of Pennsylvania, in Philadelphia.

It was on the 8th day of April that I received a telephone call from his counsel in Philadelphia, calling attention to the fact that only two days had expired from the time, or would expire from the time of the service of the subpoena [fol. 22] until the time for his appearance in Albany, and requested that the hearing be transferred to Washington instead of being held in Albany.

At the same time counsel suggested that the hearing might be in executive session.

After consulting the subcommittee I advised counsel that the hearing would be continued to Washington for Monday, the 12th of April; that I could not express any opinion as to whether or not the hearing would be executive; that that would be a matter which would have to be passed upon at the time the subcommittee met.

As a result of that, for the convenience of the witness, this hearing regarding Mr. Deutch began on April 12th in Washington.

Q. Now, you have mentioned that you consulted with reference to the postponement requested by Deutch with the subcommittee?

A. Yes.

Q. Was that a body of the Committee which had been designated to conduct the Albany hearings?

A. That was the subcommittee which had been so designated.

Q. You have stated that the Committee received certain information and that the Committee determined to do this and that. Will you tell us whether you have personal knowledge of the receipt by the Committee of the information and of the determination by the Committee of these courses of action about which you have just testified?

A. Yes, sir.

Q. How did you receive that personal information? Were you present when the information was received by the Committee?

A. I was not present on March the 12th but I examined the transcript of the witness' testimony and of course conferred with the investigator who had interrogated the witness Richardson.

Q. I see.

A. And I was present in Albany on April the 6th and directed what the investigator should do in order to find the address of the witness and directed him what to do upon receiving that information.

Q. Now; to your knowledge did the information coming from Mr. Richardson concerning the faculty member at Cornell, did that get conveyed to the Committee?

A. The Committee itself was in session in Washington and received that testimony.

Q. It was actually executive testimony, was it not, sir?

A. Yes, sir, by the same subcommittee with each member present.

[fol. 24] Q. So that is the extent of your personal knowledge; you were there when it happened?

A. Yes.

Q. And the Committee heard the testimony?

A. Yes, sir.

Q. We have been referring to the Albany hearings commencing in '53 and continuing again in April of 1954. Were the '54 hearings a continuation of the hearings commenced in '53?

A. Yes, sir, they were.

Q. Which have been printed up in part as Albany—1?

A. That is right.

Q. The '53 hearings are in part Albany—1?

A. Yes, sir.

Q. I would like to ask this question, Mr. Tavenner, before going to reading the opening statements in these hearings, merely to ask you whether there were any restrictions placed by the Committee upon the topics to be investigated in the Albany area investigations?

A. No, sir, that was a general investigation of Communist Party activities in what was referred to as the "Capital Area."

Mr. Hitz: Your Honor, I would like now to invite your attention to the passage that we have offered and has been received in evidence, from Government 1, which is Part 1 [fol. 25] of Albany. That is a statement by the Chairman of the Subcommittee concerning the purpose of the Albany hearings of '53 and '54.

The Court: Yes, you have already called the Court's attention to that.

Mr. Hitz: Would your Honor care for me to read it into the record?

The Court: Oh no, no, I do not think it is necessary to do that.

Suppose, in accordance with our usual practice, we take our mid-morning recess at this time.

(There was a brief, informal recess at the conclusion of which the proceedings were resumed as follows:)

Mr. Hitz: Your Honor, I think you indicated you did not want me to read pages 2361 and 2362 of Part 1.

The Court: If it is in evidence, I do not think it is necessary to read it into the record. It would just consume unnecessary time.

Mr. Hitz: Yes, your Honor.

I would like next to invite the Court's attention to Government's Exhibit No. 2, which is a statement by Congressman Velde who was then Chairman of this Committee.

The Court: You have already done that when you offered the exhibit in evidence.

[fol. 26] Mr. Hitz: And in Government's No. 3, which is Albany 3, which is the April, 1954, hearings in the Albany area, I have offered and there has been received in evidence the opening statement of Subcommittee Chairman Kearney concerning the purposes of that hearing.

The Court: Yes.

Mr. Hitz: And later we offered in that same print the testimony of the witness Marqusee.

The Court: Yes, you have already done so.

Mr. Hitz: I would ask, would it be unnecessary then for me to ask the witness certain questions concerning Marqusee's testimony or has the Court had an opportunity to read this?

The Court: Well, the testimony is before the Court. You can refer to it in your final argument. You have already offered it in evidence.

Mr. Hitz: Yes, your Honor.

Likewise we could pass to Government's No. 4 which embraces the testimony of Richardson, a witness giving testimony concerning Mr. Deutch, and likewise I assume we need not read that.

The Court: Yes, that is all before the Court. You may refer to all those matters in your final argument at the proper time.

Mr. Hitz: Thank you, your Honor. Would it likewise [fol. 27] be unnecessary further to refer to the testimony of Deutch himself, the subject matter of the trial?

The Court: Well, there is one thing I would like to have you deal with that testimony.

Mr. Hitz: Yes, your Honor.

The Court: Will you call the Court's attention to the precise point at which the questions involved in this indictment appear in that exhibit?

Mr. Hitz: Yes, your Honor.

The Court: That is Exhibit Number 5.

Mr. Hitz: Yes, it is Government 5.

The Court: Now, the first question appears, I find, at the bottom of page 4044, does it not?

Mr. Hitz: It does, your Honor.

The Court: Now, where is the second question?

Mr. Hitz: A little above the middle of 4046 in the paragraph by Mr. Tavenner.

The Court: I see it.

Mr. Hitz: Count Number 3 is on page 4048. A third of the way from the bottom Mr. Jackson asks the question "Where were these meetings held?"

The Court: Just where is that, Mr. Hitz? Oh yes, I see it now.

Mr. Hitz: Count 4 as to Homer Owen is on page 4049 about eight lines from the top. Mr. Tavenner asks the [fol. 28] question.

The Court: 4049?

Mr. Hitz: 4049 about eight lines from the top, Mr. Tavenner says "Were you acquainted with Homer Owen?"

The Court: Oh yes, I see it now.

Mr. Hitz: And the last and 5th count is on page 4050, about 15 lines from the bottom, Mr. Jackson asks the question "The witness is directed to give the name of the person by whom he was approached."

The Court: Very well.

Mr. Hitz: I will not, then, ask the Court's permission to read this but I would like some testimony concerning the pertinency of one or two of these questions whose pertinency may not appear on its face.

The Court: Very well. Insofar as it does not appear on the face of the question, of course you may offer extrinsic evidence.

Mr. Hitz: Count 1, of course, the Government contends is pertinent on its face.

Count 2 is pertinent within the context of the question, because it is apparent that the hundred-dollar contribution has to do with Mr. Deutch's alleged activities as a liaison in the Party. In fact, the entire statement of Mr. Tavenner from which this question is taken gives the background in context and the pertinency of that question.

[fol. 29] The context likewise supplies the pertinency for question No. 3, which is Count number 3, "Where were these meetings held?" It is obvious that they referred to Communist Party meetings.

Count No. 4, with reference to Homer Owen, I think needs some testimony or at least we would like to be able to give it.

The Court: Yes, I think it would be entirely appropriate.

By Mr. Hitz:

Q. Mr. Tavenner, will you tell us who was Homer Owen to the knowledge of the Committee, and what it was that the Committee sought to your knowledge in asking the Homer Owen question?

A. Homer Owen had been a student at Cornell University from 1947 until 1952, or possibly from 1948 until 1952, and he was enrolled in the Industrial Relations course, from which students in the summer took positions with various labor unions, some of which were Communist dominated and controlled.

The Committee was desirous of ascertaining to what extent any of those students leaving on those summer courses were influenced to select Communist controlled unions for the purposes of their summer work. That is what we were leading into.

[fol. 30]. Mr. Sawyer: Your Honor, I move to strike that portion of the answer in which the witness purports to tell what the Committee was interested in; that portion.

The Court: What is the basis of your objection?

Mr. Sawyer: On the basis, your Honor, that the witness is incompetent to testify what was in the Committee's minds and what they were interested in must have been what was in their minds. I do not object to the portion in which he tells who Homer Owen was.

The Court: Well, I think there is some merit to that objection.

Suppose you bring out, Mr. Hitz, if you can, the basis for this witness' knowledge of that fact.

Mr. Hitz: Yes, your Honor.

The Court: Because it may be incompetent and may be competent, depending upon how he derives that knowledge.

Mr. Hitz: I see.

By Mr. Hitz:

Q. Mr. Tavenner, I frame my question to ask you what the Committee to your knowledge had in mind with reference to this.

Will you tell us whether or not your reply with respect to that has to do with the Committee's information or not?

A. Yes, it does.

[fol. 31] Q. Did you discuss the subject of Mr. Owen and his activities with the Committee or did they discuss it in your presence?

A. No. No, it was not done that way.

Q. How does it come to your attention that the Committee had in mind the activities of Mr. Owen in the Industrial Relations School at Cornell?

A. On March the 22nd Mr. Owen was before this same subcommittee in preparation for the hearings which we held later on April the 7th in Albany, and it was through information given at that time.

The Court: No, I do not think that quite answers the question.

You just stated what the Committee wanted to know, and the question is how do you derive your knowledge as to what the Committee wanted to know.

The Witness: The staff had ascertained and had reported to the Committee that there were members of the Industrial Relations Department of the University who were accepting positions with some labor unions which had been—which were, by our own testimony, Communist controlled, and it was in the investigation of that matter which brought these matters to light.

The Court: No, the question is how do you know that the Committee wanted to ascertain this information?

[fol. 32] The Witness: Because these facts that I have just related were related to the subcommittee and in discussing the matter with the subcommittee it was determined that we should go into these facts.

The Court: By whom was it determined?

The Witness: By the subcommittee.

The Court: In your presence?

The Witness: Which met—

The Court: In your presence?

The Witness: Yes, sir.

The Court: I think that answers it.

Mr. Sawyer: Therefore my objection is on the basis that it is hearsay.

The Court: Well, I am going to overrule the objection, on this ground, that the objection would be sound if this testimony was tendered as proof of the facts, because the testimony would then be considered hearsay. This testimony is tendered and is admitted by the Court merely on the issue as to what the purpose of the Committee was, and not as proof of the facts which formed the basis of that purpose.

Mr. Sawyer: I understand that, your Honor, and I quite agree that the fact that the facts forming the basis of—

The Court: Now, I have made the ruling.

Mr. Sawyer: But my objection is to the hearsay.

[fol. 33] The Court: You have already made the objection and I have overruled it, and it is not my practice to hear argument after I have ruled.

Mr. Hitz: Your Honor, I am proceeding now to Count 5 and the pertinency of the question. I think that pertinency appears from the context because it is apparent that the meaning of the question was "by whom was the witness approached to join the party?" We have no further evidence on pertinency concerning that question.

Your Honor, I would like permission to ask the witness a question which is somewhat leading in its form but I think the purpose of it will perhaps justify that question.

By Mr. Hitz:

Q. Mr. Tavenner, some little bit has been said in my opening statement and in the testimony here concerning Communism at Cornell University. Is it not true that there was a statement or some testimony given by either Richardson or by witness Marqusee to the effect that there was very little infiltration of Communism at the University upon which Congressman Scherer made a comment that there was very little indeed at Cornell?

Now, do not answer the question if there is any objection to it. Is there?

Mr. Sawyer: Well, your Honor, I only—I don't understand the purpose of it.

[fol. 34] The Court: Please do not argue. My practice is to have counsel state the objection, without argument, and if I wish to hear argument I will so indicate it.

Mr. Sawyer: I will object, your Honor, on the ground of relevancy.

The Court: On what ground?

Mr. Sawyer: On the grounds of relevancy.

Mr. Hitz: May I reply to that? I concede it is irrelevant and I withdraw the question.

The Court: Yes, I will sustain the objection.

Mr. Hitz: Your Honor, we have no further testimony from Mr. Tavenner in view of the exhibits that have been received and the stipulation which has been read.

The Court: Any cross-examination?

Mr. Sawyer: Yes, sir.

The Court: You may proceed.

Mr. Sawyer: Thank you, sir.

Cross examination.

By Mr. Sawyer:

Q. Mr. Tavenner, you referred to the fact that Mr. Owen had testified previous to the time at which Mr. Deutch was called. Is that correct?

A. That is correct.

Q. Is it correct that Mr. Owen answered all of the questions that the Committee put to him?

[fol. 35] A. It is.

Q. Regarding both his own associations with the Communist Party and regarding associations, the names of other people and any other questions involving the activities which the Committee cared to put?

A. That is my recollection that he answered all questions as to which he had knowledge.

Q. And Mr. Tavenner, do you remember the date on which Mr. Owen appeared before the Committee?

A. Yes, sir. March the 22nd.

Mr. Sawyer: Your Honor, will you indulge me for just one second?

The Court: Surely. Take whatever time you need.

Mr. Sawyer: No further questions. Thank you.

Mr. Hitz: Your Honor, I would like to ask one question which perhaps is in the nature of further direct examination. May I do that?

The Court: Yes indeed.

By Mr. Hitz:

Q. Mr. Tavenner, you stated that the attorney for Mr. Deutch, while the subcommittee was still in Albany, asked you for a postponement of the appearance of Mr. Deutch and also for his appearance to be one in executive session. You stated that you told the lawyer that you could postpone [fol. 36] the hearing but that you could not promise him an executive session?

A. That is correct.

Q. I will now ask you did you take that matter up with the Committee and was it in executive session in Washington?

A. Yes, sir. When the Committee assembled and before calling the witness—

The Court: No, the question is was the session in Washington an executive session or not.

The Witness: It was.

Mr. Hitz: Thank you. That is all.

Mr. Sawyer: No further questions, sir.

Mr. Hitz: No further questions.

The Court: You may step down.

(The witness left the stand.)

Mr. Hitz: The Government rests.

The Court: You may proceed.

Mr. Sawyer: Your Honor, I have a stipulation, sir.

The Court: Very well.

Mr. Sawyer: My stipulation is in written form, your Honor, and Mr. Hitz has agreed to it informally although he may want a moment to read it.

Mr. Hitz: I would like to read it. I haven't had a chance to read it, your Honor.

[fol. 37]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CRIMINAL No. 1152-54

CHARGE Violation of Section 192, Title 2, U. S. Code

UNITED STATES

vs.

BERNHARD DEUTCH

Defendant

JUDGMENT OF GUILTY—December 12, 1956

On this 12th day of December, 1956, came again the parties aforesaid, in manner as aforesaid, in this cause, the hearing of which was respited yesterday;

It is adjudged by the Court that the defendant is not guilty on Count Three; guilty on Counts One, Two, Four and Five.

The case is not referred to the Probation Officer of the Court and the defendant is to be sentenced tomorrow morning, Thursday, December 13, 1956.

The defendant is permitted to remain on bond pending sentence.

By direction of

ALEXANDER HOLTZOFF
Presiding Judge
Criminal Court # 1

HARRY M. HULL, Clerk

By /s/ DANIEL J. MENCOBONI
Deputy Clerk

Present:

United States Attorney

By William Hitz

Assistant United States Attorney

J. Rawls & Roger E. Frye
Official Reporter

[fol. 38]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Criminal No. 1152-54

UNITED STATES OF AMERICA

v.

BERNHARD DEUTCH

JUDGMENT AND COMMITMENT—December 14, 1956

On this 13th day of December, 1956 came the attorney for the government and the defendant appeared in person

and¹ by counsel, Henry W. Sawyer and George Herbert Goodrich.

IT IS ADJUDGED that the defendant has been convicted upon his plea of² not guilty and a finding of guilty of the offense of Violation of Section 192, Title 2, U. S. Code as charged³ in Counts One, Two, Four and Five and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of⁴ Ninety (90) days, and to pay a fine of One Hundred (\$100.00) Dollars.

~~It Is Adjudged that⁵~~

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ ALEXANDER HOLTZOFF,
United States District Judge.

The Court recommends commitment to:⁶

.....
Clerk.

¹ Insert "by counsel" or "without counsel; the court advised the defendant of his right to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel."

² Insert (1) "guilty," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. ³ Insert "in count(s) number if required. ⁴ Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding or unserved sentence; (3) whether defendant is to be further im-

[fol. 39]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CRIMINAL CASE No. 1152-54

UNITED STATES OF AMERICA,

Plaintiff,

v.

BERNHARD DEUTCH,

Defendant.

OPINION—December 12, 1956

George H. Goodrich, Esq., of Washington, D. C.; and Henry W. Sawyer, III, Esq., of Philadelphia, Pa., for the motion.

Oliver Gasch, Esq., United States Attorney; and William Hitz, Esq., Assistant United States Attorney, both of Washington, D. C., opposed.

This is a trial by the court on an indictment for contempt of Congress, trial by jury having been waived by the defendant.

The defendant is charged with unlawfully refusing to answer questions which were propounded to him as a witness by the Committee on Un-American Activities of the House of Representatives. There are five questions involved in this indictment, which will be mentioned subsequently. The defendant took the position that he had moral scruples against answering the questions because they involved the activities of other persons and that he was practically being asked to inform on others as to their [fol. 40] illegal or improper activities.

prisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. ⁵ Enter any order with respect to suspension and probation. ⁶ For use of Court wishing to recommend a particular institution.

This case involves some of the fundamental principles as to the investigative power of the Congress. Under the Constitution of the United States the Federal Government is a government of limited powers. The Congress, being the legislative branch of the Federal Government, is also clothed with limited legislative powers. In order, however, to carry its legislative powers into effect successfully, it has always been held that Congress has the power to secure information concerning matters in respect to which it has the authority to legislate. In fact, it would seem that Congress must secure information in order to legislate intelligently. Beyond that, the Congress has the right to secure information in order to determine whether or not to legislate on a particular subject matter on which is within its Constitutional powers to act.

This Court had occasion to say in *United States v. Bryan*, 72 F. Supp. 58, 61, that: "It is elementary that for use in connection with the exercise of its power to legislate and to appropriate funds, the Congress has the authority to secure information. . . . The Congress . . . has the right to compel the disclosure of factual material. . . . For this purpose the Congress may issue subpoenas to require the attendance of witnesses and to exact the production of records and documents." And again the Court stated in that case that, "The collection of facts may cover a wide field. Obviously, in order to act in an enlightened manner it may be necessary and desirable for the Congress to become acquainted not only with the precise topic involved in prospective legislation, but also with all matters that may have an indirect bearing on the subject." A number [fol. 41] of examples are enumerated in that opinion.

To be sure there is a very definite limitation that must not be overlooked on the power of Congress to investigate. The power to carry on investigations and secure information may be used only in connection with the exercise of its legislative function, and with the appropriation of funds. The information sought to be secured by a congressional committee must be germane to the legislative or the appropriating function. For example; Congress may not compel the divulgence of information for the sole purpose of ascertaining whether a crime has been committed, as a basis

for a criminal prosecution. That is a matter for the Judiciary and for the prosecuting officers of the government. On the other hand, if some information is desired for use in connection with the exercise of the legislative or appropriating power, the mere fact that the information may be used for some other purpose as well does not deprive the Congress of the right to elicit it.

In determining whether any question was properly asked of a witness before a congressional committee, three matters must be considered. First, was the general subject matter within the legislative power of the Congress? Second, was the inquiry within the power delegated by the Congress to this specific congressional committee? And, third, were the particular questions pertinent to the inquiry which the committee was pursuing?

As to the first question, the subject of investigation of Communism is obviously within the legislative function of the Congress, as this Court held in *United States v. Sacher*, 139 F. Supp. 855, 858. In that case this Court called attention to the fact that the Congress has legislated on the [fol. 42] subject of Communistic activities and other activities tending to overthrow the Government by force and violence, and that the legality of the creation of the Committee on Un-American Activities of the House of Representatives has been often contested but the contest has always been resolved in favor of the Committee.

The next question is whether the particular subject matter was within the jurisdiction of this Committee. That question must likewise be answered in the affirmative. The Committee was investigating the infiltration of Communism into educational and labor fields. This general subject was obviously within its jurisdiction.

The third question to be determined is the pertinency of the specific questions asked of the witness to the subject matter of the inquiry, and in this connection we must consider the questions.

The first count charges the defendant with refusing unlawfully to answer the following question:

"The Committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison

between a Communist party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty who was a member of the Communist Party. Will you tell us who that member of the faculty was?"

Obviously, this question is pertinent to the general subject matter under scrutiny, on its very face. The Committee was investigating the infiltration of Communism into education, and obviously it had the right to ascertain the names of university and college teachers who were members of the Communist Party, if any there were. The defendant declined to answer and was directed to answer.

[fol. 43] Count two involves a question as to the source of a hundred-dollar contribution for the benefit of the Communist Party. The defendant refused to answer and was thereafter directed to answer. Obviously this question is pertinent on its face.

For the moment I shall omit Count three.

Count four inquired of the defendant whether he was acquainted with one Homer Owen.

The testimony at this trial indicates that Homer Owen had been a student at Cornell in an industrial relations course, and that students in that course did temporary summer work in various labor unions, some of which were Communist controlled. The Committee desired to know what, if any, connection there was between students in this course and the Communist-controlled unions. The question whether the defendant was acquainted with Homer Owen is obviously a preliminary question that might have led to a line of inquiry within the scope of the topic just mentioned. Consequently, it was a pertinent question.

The mere fact that the Committee had obtained information from Homer Owen, and that Homer Owen had testified in full before the committee, does not deprive the committee of the power to ask other witnesses concerning the activities of Homer Owen. A congressional committee in the course of its investigations has a right to obtain cumulative testimony. It has a right to call several witnesses to the same matter in order to check the accuracy of the information that it is obtaining. It should be also remem-

bered that the rules of evidence applicable to jury trials in the courts do not limit the powers of congressional committees and have no place in hearings before congressional committees.

[fol. 44] Count five called upon the defendant to identify the student who approached him and invited him to join a Communist unit. This question obviously is pertinent on its face.

This leads me to return to Count number three. Count number three is in a different class. In Count number three the defendant was asked to state the places where certain Communist meetings were held. The defendant gave an answer with a double aspect. He in effect said at first he did not remember and, second, if he did remember he would not answer anyway. Thus, his statement that he would refuse to answer was more or less a surplusage. He may not be punished for contempt of Congress merely for stating that he does not remember.

In the light of these considerations the Court finds the defendant guilty on Counts one, two, four and five, and not guilty on count three.

/s/ ALEXANDER HOLTZOFF
United States District Judge.

December 12, 1956.

Clerk's Certificate to Foregoing Transcript (omitted in printing).

[fol. 45]

GOVERNMENT'S EXHIBIT No. 1

INVESTIGATION OF COMMUNIST ACTIVITIES IN THE ALBANY, N. Y., AREA—PART 1

HEARINGS

BEFORE THE COMMITTEE ON UN-AMERICAN ACTIVITIES HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

FIRST SESSION

 JULY 13 AND 14, 1953

Printed for the use of the Committee on
Un-American Activities

[fol. 46]

COMMITTEE ON UN-AMERICAN ACTIVITIES UNITED STATES HOUSE OF REPRESENTATIVES HAROLD H. VELDE, Illinois, *Chairman*

BERNARD W. KEARNEY,
New York
DONALD L. JACKSON, California
KIT CLARDY, Michigan
GORDON H. SCHERER, Ohio

FRANCIS E. WALTER, Pennsylvania
MORGAN M. MOULDER, Missouri
CLYDE DOYLE, California
JAMES B. FRAZIER, Jr., Tennessee

ROBERT L. KUNZIG, *Counsel*
FRANK S. TAVENNER, Jr., *Counsel*
LOUIS J. RUSSELL, *Chief Investigator*
THOMAS W. BEALE, Sr., *Chief Clerk*
RAPHAEL I. NIXON, *Director of Research*

[fol. 47]

PUBLIC LAW 601, 79TH CONGRESS

The legislation under which the House Committee on Un-American Activities operates is Public Law 601, 79th Congress [1946], chapter 753, 2d session, which provides:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, . . .

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

RULE X

SEC. 121. STANDING COMMITTEES

17. Committee on Un-American Activities, to consist of nine members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

(q) (1) Committee on Un-American Activities.

(A) Un-American activities.

(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

[fol. 48] RULES ADOPTED BY THE 83D CONGRESS

House Resolution 5, January 3, 1953

RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress, the following standing committees:

(q) Committee on Un-American Activities, to consist of nine members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

17. Committee on Un-American Activities.

(a) Un-American Activities.

(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time, investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

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[fol. 49]

INVESTIGATION OF COMMUNIST ACTIVITIES IN
THE ALBANY, N. Y., AREA—PART 1

MONDAY, JULY 13, 1953

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE
ON UN-AMERICAN ACTIVITIES,
Albany, N. Y.

PUBLIC HEARING

The subcommittee of the Committee on Un-American Activities met, pursuant to call, at 10:30 a. m., in courtroom No. 1 of the Federal Building, Albany, N. Y., Hon. Bernard W. Kearney (chairman of the subcommittee) presiding.

Committee members present: Representatives Bernard W. Kearney (presiding) and Gordon H. Scherer.

Staff members present: Frank S. Tavenner, Jr., counsel; Thomas W. Beale, Sr., chief clerk; James A. Andrews, and Earl L. Fuoss, investigators; and Mrs. Rosella Purdy, secretary to counsel.

Mr. Kearney: The hearing will be in order.

Mr. Reporter, let the record show that, acting under authority of the resolution establishing the House Committee on Un-American Activities, the chairman has set up a subcommittee for the purpose of conducting hearings in the city of Albany composed of the following members: Hon. Bernard W. Kearney, chairman, the Honorable Gordon Scherer, and the Honorable James B. Frazier, Jr., the

first two of whom are present. Mr. Frazier will be here tomorrow afternoon.

The committee is charged by the Congress of the United States with the responsibility of investigating the extent, character and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries, or of a domestic origin, and attacks the principles of the form of government as guaranteed by our Constitution and all other questions in relation thereto that will aid Congress in any necessary remedial legislation.

It has been fully established by testimony before this and other congressional committees and before the courts of our land that the Communist Party of the United States is part of an international conspiracy, which is being used as a tool or a weapon by a foreign power to promote its own foreign policy and which has for its objective the overthrow of the governments of all non-Communist countries, resorting to the use of force and violence if necessary. This organization cannot live and expand within the United States except by the promulgation and diffusion of subversive and un-American propaganda designed to win adherence to its cause.

[fol. 50] The first witness in this hearing will testify regarding certain aspects of the worldwide Communist conspiracy, which should demonstrate what a serious matter it is to permit individuals who are subject to the directives and discipline of the Communist Party to be placed in positions of leadership in any functional organization.

The committee, in its course of investigation, came into possession of reliable information indicating Communist Party activities within the Albany area. The committee decided that this information was of such a character as to merit an investigation to determine its nature, extent, character, and objects.

Many witnesses have appeared before this committee, sitting in various places throughout the United States, and have revealed their experiences as former Communist Party members. Such testimony has added immeasurably to the

sum total of the knowledge, character, extent, and objects of Communist activities in this country.

Witnesses from Hollywood, labor unions, the legal profession, medical profession, and other groups have made a great contribution to the defense of our country by disclosing to this committee facts within their knowledge.

In the view of this committee, such testimony should not be held against an individual where it has that character of trustworthiness which convinces one that the witness has completely and finally terminated Communist Party membership and that such testimony has been given in all good faith.

The committee is not concerned with the political beliefs or opinions of any witness who has been called before it. It is concerned only with the facts showing the extent, character, and objects of the Communist Party activities.

In keeping with the long-standing policy of this committee, any individual or organization whose name is mentioned during the course of the hearings in such a manner as to adversely affect them shall have an opportunity to appear before the committee for the purpose of making a denial or explanation of any adverse references.

I would also like at this time, before the beginning of these hearings, to make this announcement to the public: We are here at the discretion of the Congress of the United States, trying to discharge a duty and obligation that has been placed upon us. The public is here by permission of the committee and not by any compulsion. Any attempt or effort on the part of anyone to make a demonstration or audible comment in this hearing room, either favorably or unfavorably, toward the committee's undertaking, or to what any witness may have to say, will not be countenanced by the committee. If such conduct should occur, the officers on duty will be requested to eject the offenders from the hearing room.

Mr. Counsel, are you ready to proceed?

Mr. Tavenner: Yes, sir.

Mr. Kearney: Call your first witness.

Mr. Tavenner: I would like to call as the first witness Mr. Patrick Walsh.

Mr. Kearney: Mr. Walsh, will you hold up your right hand, please?

Do you solemnly swear the testimony you are about to give before this committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Walsh: I do.

Mr. Kearney: Be seated.

[fol. 51]

TESTIMONY OF PATRICK WALSH

Mr. Tavenner: Mr. Walsh, will you state your name, please, sir?

Mr. Walsh: Patrick Walsh.

Mr. Tavenner: When and where were you born?

Mr. Walsh: I was born in Quebec City, Canada, on March the 17th, 1916.

Mr. Tavenner: How do you spell your last name?

Mr. Walsh: W-a-l-s-h.

Mr. Tavenner: Mr. Walsh, it is the practice of this committee to explain to every witness that he has the right to be accompanied by counsel and he has the right to consult counsel at any time during the course of his testimony that he may desire to do so. It is noted you do not have counsel with you. Do you desire counsel?

Mr. Walsh: No; I do not desire counsel.

Mr. Tavenner: Are you a citizen of the United States, Mr. Walsh?

Mr. Walsh: No; I am a citizen of Canada.

Mr. Tavenner: Mr. Walsh, the purpose of the committee in having you appear before it is to question you regarding certain aspects of the Communist international conspiracy with which we are informed you are familiar.

I think I should state at the outset it is not the purpose of the committee to inquire into any matter which is strictly a Canadian Government matter, or a Canadian matter. We are concerned only with the international aspects of communism. However, it is necessary, we feel, in order that the committee may properly understand your testimony, that you give to the committee in a general way what your background has been in the Communist Party so that they

may properly evaluate your testimony. So, I will ask you to give the committee a brief statement of your experience in the Communist Party, bearing in mind that we do not desire to go into matters in detail which are strictly Canadian matters.

Mr. Walsh: When I was about 17 or 18 years old, I joined the Unemployed Youth Organization in Quebec City; and I was subsequently sent to unemployment camps which we had in Canada at that time, which was something like your CCC camps in the United States, and there I met organizers of the Young Communist League, including Harry Binder, who then persuaded me to join the Young Communist League.

Mr. Tavenner: Will you spell the name Binder?

Mr. Walsh: B-i-n-d-e-r.

And then after following courses in Marxism in Montreal, one of my professors being Fred Rose, who was arrested in the Canadian spy trials of 1946 and was tried and sentenced after being found guilty of having conspired to pass on highly secret information to personnel of the Soviet Embassy—and Fred Rose was the one who was responsible for having me sent as a Communist Party organizer to the mining districts of northwestern Quebec—more specifically in the Rouyn and Noranda section.

Mr. Tavenner: Will you spell it, please?

Mr. Walsh: Rouyn is spelled R-o-u-y-n, and Noranda—N-o-r-a-n-d-a.

[fol. 52] I was in that district agitating in the minefields and in the lumber camps for the Workers' Unity League, which was the Communist Party organization at that time in Canada, from 1937 to 1940.

In 1940, I was ordered to enlist in the Canadian Army so as to carry on revolutionary defeatism because the line of the Communist Party at that time was against what they called an imperialist war. I was subsequently dishonorably discharged from the Army about 4 months later because of subversive activities in the course of the stay that I was in the Army.

My next assignment was to infiltrate at the Shipshaw powerhouse project, which was a top-secret war plant being

built by the Aluminum Co. of Canada and which had as its purpose—

Mr. Tavenner: Will you spell the name, please?

Mr. Walsh: Shipshaw—S-h-i-p-s-h-a-w. It is situated in northern Quebec, in the Lake St. John district. I believe it is the second greatest powerhouse in the world.

And I went up to Shipshaw on this top assignment, and I was instrumental in getting about 150 top Communists who came to this powerhouse project and who worked for about 2 years without any of the newspapers knowing about it or without any of the public at large being made aware that such a large concentration of Communists were working at the Shipshaw powerhouse.

I wish to state at that time that the Communist Party was declared illegal in Canada, in 1939.

At the outset of the war and in 1941 the Canadian Communists organized a new party called the Labor Progressive Party, which had the same leaders and practically the same program. It was only modified in the sense so as not to run afoul of the War Measures Act, and the name of the organization is more commonly known in Canada as the LPP.

Mr. Tavenner: Do I understand, then, that the LPP carried on the same functions as the Communist Party of Canada carried on prior to the adoption of the War Measures Act?

Mr. Walsh: Precisely. They carried them on until the party line changed. When the Soviet Union was attacked by the Nazi troops—and that is why our methods were also changed, along with the somersault in the party line, because the imperialist war had become a war of liberation and because the Soviet Union was attacked—we were told that we should all enlist in the Canadian Army; we could all donate our blood to the Red Cross; and we should work overtime without asking for any pay, and we should even break strikes because there was no more question of making any. There was only the question of winning the war in order to help the Soviet Union resist the attack of the Nazi armies.

I do not want to go into detail on my Shipshaw assignment because of the fact that in this particular instance the

interests of Canada and the interests of the Soviet Union coincided, and for once the Communists were what we might term patriotic, although they had motives of their own for so acting.

But in 1943 I was ordered again to attempt reenlistment in the Canadian Armed Forces and succeeded in reenlisting and in going overseas; and here again I was in contact with cells of the Communist Party which were very active and very strong in the Canadian Armed Forces—in the [fol. 53] Air Force, in the Navy, and in the Army—and our main task at that time was to carry on the agitation for the opening of a second front, which had been going on ever since 1942.

Mr. Tavenner: I think it would be well for you to tell the committee the nature of the work you did in the armed services in promotion of the Communist Party line of opening the second front.

Mr. Walsh: Well, in Great Britain, in 1943, Communist Party members who were in the armed forces used to meet secretly in London, Glasgow, Aldershot, Farnborough, and various other places where the Canadian Army units were concentrated, and there everybody was urged by such top Communists as Harry Binder, whom I mentioned previously, Jerry McManus, Gui Caron, Norman Nerenberg—

Mr. Tavenner: Will you spell the name, please?

Mr. Walsh: Gui Caron is spelled G-u-i, and Caron—C-a-r-o-n. Today he is the provincial leader of the LPP.

Mr. Tavenner: And the LPP is the organization which succeeded the Communist Party organization?

Mr. Walsh: Exactly. It is the new name of the Communist Party.

And at these meetings we were urged to create agitation in the army for the opening of a second front, and we ascertained by meeting with various Australian and New Zealand Army personnel—naturally the same thing was being carried out by the Communists in all these armies, that is, to carry on the agitation to open up the second front because at that time the Communist Party line everywhere was to the effect that the Red army was being bled to death because it was fighting alone whereas the Allied armies were remaining idle in Great Britain and elsewhere.

We also attended meetings of the Communist Party of Great Britain, which were held publicly, and we also managed to get in on the question periods, which followed these meetings, and here, too, Canadian Communists and American Communists who were often in the audience were very active in clamoring for the opening of the second front.

Mr. Tavenner: Did you become personally acquainted with any of the American members of the Armed Forces in Europe who were engaged in work of that character?

Mr. Walsh: Well, I often met members of the Armed Forces in American uniform at meetings, but I do not recall specifically any names except "comrade," which was the term that was used between Canadian and American Communists, because at these meetings we were in the public eye and we came there to discuss and to guide along the party line. So I do not recall the names of any American Communists who participated in these meetings.

Now, to continue, the second front was eventually opened in 1944, and many of us, including myself, who had clamored so long for the opening of this second front—as soon as we found ourselves on the Continent, we began in our spare time to contact the Communist Parties of France and Belgium and to actively take part in various work which French-speaking comrades could do there.

I, myself, was arrested in France in August 1944, near Cannes, and was taken back to England for having spoken at a meeting of the Communist Party of France.

[fol. 54] When I returned from the army overseas, I became general organizer of the Canadian Congress of Labor, which is the counterpart of the CIO in the United States of America here, and my nomination to that position was arranged by the Communist Party because of the fact that the Communist Party at that time had considerable influence, having complete control over such CIO unions as the Fur and Leather Workers, the United Electrical Radio and Machine Workers, and the International Union of Mine, Mill, and Smelter Workers, which then formed an important sector of the Canadian Congress of Labor.

I was general organizer for 6 months, and then I got a new assignment to resign from the Canadian Congress of Labor so that I could participate in a plan which Com-

munists everywhere—in Great Britain, France, Italy, the United States of America, Canada, and other countries—were carrying on, that is, the infiltration of veteran organizations.

I infiltrated into the Canadian Legion, which is the counterpart of your American Legion here, and in 1947 I was elected president of the United Veterans branch of Quebec City, and at the Provincial convention I was elected Provincial vice president, and in that capacity carried on instructions of the Labor Progressive Party so as to implement as much as possible the Communist line at all meetings and discussions.

However, the [Canadian] Legion took drastic steps to weed out the Communists and before I was expelled I received another assignment, and this assignment was to take part in the Canadian seamen's deep-sea strike of 1949.

Mr. Tavenner: Let me stop you there a moment. Did you mean to indicate that you were expelled by the Legion or that you took this assignment before time permitted you to be expelled?

Mr. Walsh: Well, it was quite obvious that I had a rendezvous with expulsion because of the other Communists who had been expelled previously, and I was scheduled to be expelled. So the Communists decided that I would be assigned to other work, and at the same time—it was probably a coincidence—there was this question of the forthcoming CSU—Canadian Seamen's Union strike, where the Canadian Communists particularly wanted me to participate because of my trade-union experience and because of my knowledge of the continental Communist Parties in Europe, and also because I could speak both languages, because the Canadian Seamen's Union had brought French-Canadian and English-Canadian seamen among their membership.

Mr. Tavenner: Then, you say it was at this time, before action had been taken to expell you from the Legion, that you got this new assignment. Who gave you that assignment?

Mr. Walsh: This assignment was given to me by J. B. Salsberg, who was and is the trade union commission director of the Labor Progressive Party, which is the Commu-

nist Party, and Salsberg, as trade union commission director, is the Communist who is responsible for switching Communist organizers from one union to another and to be in control, in overall control, of all Communist-dominated unions like the United Electrical Workers; the Mine, Mill, and Smelter Workers; the Fur and Leather Workers; the Marine Cooks and Stewards, and so on and so forth.

Mr. Tavenner: Will you spell the name, please?

[fol. 55] Mr. Walsh: The Marine Cooks and Stewards?

Mr. Tavenner: No; I meant Salsberg.

Mr. Walsh: S-a-l-s-b-e-r-g, and his initials are J. E.

Mr. Tavenner: Will you tell the committee, please, just what part the Canadian Seamen's Union was expected to play in this strike—whether it was just purely a local strike or whether it was a strike having greater significance than that?

Mr. Walsh: At that time I was not aware of the vastness and the consequences of this strike because, first of all, not having been a seaman I couldn't estimate exactly what consequences a strike would eventually bring about; but I went along and saw Salsberg. We had a meeting in the Communist Party office in Toronto, and at this meeting, among others who attended, were members of the National Trade Union Commission, such well-known Communists—

Mr. Tavenner: Just a moment. The National Trade Union Commission was what type of an organization?

Mr. Walsh: It is a Communist trade-union section within the party.

Mr. Tavenner: Then, I understand that this was not a legitimate trade union, but was a commission of the Communist Party?

Mr. Walsh: Exactly; a kind of controlled commission to look after the organizers who belonged to the party.

Mr. Tavenner: Now, will you give use the name of that commission again?

Mr. Walsh: The trade union commission.

Mr. Tavenner: Of the Communist Party?

Mr. Walsh: Of the Labor Progressive Party.

Mr. Tavenner: Which was the Communist Party?

Mr. Walsh: Which was the Communist Party.

Mr. Tavenner: Of Canada?

Mr. Walsh: That's right.

Mr. Kearney: May I interrupt at this point, Mr. Counsel?

Mr. Tavenner: Yes, sir.

Mr. Kearney: At this meeting were there any individuals allowed to be present other than members of the Communist Party?

Mr. Walsh: No; it was a highly secret affair and only the members of the Communist Party—and in this particular instance not one of them had less than 20 years' experience in the Communist Party. They were all top Communist Party organizers.

Mr. Kearney: In other words, they were the top echelon of the Communist Party organizers?

Mr. Walsh: Yes; that is correct.

Mr. Tavenner: Now, where did this meeting take place?

Mr. Walsh: This meeting took place in the Communist Party building in 83 Christie Street in Toronto.

Mr. Tavenner: Can you fix the date of the meeting, or the approximate date?

Mr. Walsh: Well, it was some time at the beginning of August 1948.

Mr. Tavenner: Now, will you tell the committee again, please, because I interrupted you, just what occurred at this meeting?

This is the meeting, I understand, which Mr. Salsberg directed your attendance.

Mr. Walsh: Well, to explain to you how the seriousness of this meeting—I will say that some of the people who attended this meeting are well known among Canadian trade unionists, are old-time Communists, and all of them have been expelled at one time or another from both the AFL and CIO for Communist activities and for faithfully following the Communist Party line. For example, there was George Harris, who is the secretary-treasurer of the United Electrical Workers.

Mr. Tavenner: You mean who held that position at that time—

Mr. Walsh: Yes.

Mr. Tavenner: ... at the present?

Mr. Walsh: And still holds it at this time.

Mr. Tavenner: Will you spell the name, please?

Mr. Walsh: Harris—H-a-r-r-i-s.

Duerr Ferguson—

Mr. Kearney: Is that of the Canadian branch or—

Mr. Walsh: That is the Canadian district.

Mr. Kearney: Canadian district.

Mr. Walsh: Duerr Ferguson, who was formerly the CSU vice-president and is now an organizer for the Fur and Leather Workers' Union.

Mr. Tavenner: Will you spell the first name, please?

Mr. Walsh: Duerr—D-u-e-r-r; Ferguson—F-e-r-g-u-s-o-n.

At this point I would like to beg the indulgence of the committee for my heavy French accent, because I am more accustomed to speaking French and I have been so long in Europe and in the French-speaking part of Canada that my English might be a little difficult to understand. So, I don't want you to hesitate if I say something I do not make clear enough—

Mr. Tavenner: Let me suggest that you do not speak quite so rapidly.

Mr. Walsh: Yes; that is all right.

Oscar Roy—Roy is R-o-y—who is a former organizer of the International Union of Mine, Mill, and Smelter Workers and who today is the official Communist LPP candidate in the Timmins constituency.

Mr. Tavenner: Spell Timmins.

Mr. Walsh: Timmins—T-i-m-m-i-n-s.

Now, all these people were all old-time wheelhorses of the Communist Party in Canada. As I mentioned before, all of them have at least 20 years of experience and membership in the Communist Party and in the unions that have been dominated by the Communists, and most of them are known for their allegiance to Moscow's orders rather than to their own membership's needs and requirements.

Now, when I got into Salsberg's office, he spread out a chart of the Atlantic Ocean on the floor, and on this chart there were miniature drawings of all of the ships which were under CSU contract at that time. The Canadian Sea-

men's Union at that time had a membership of 10,000 and had contracts with the Great Lakes Ship Owners and Deep Sea Ship Owners, and on the Atlantic coast there were about 85 ships that were under CSU contract.

Now, Salsberg had all the names of those ships and he also had a list alongside of each ship which included the complete crew.

Now, some of these lists were typed in black, some were typed in red, and others were underlined. Those that were typed in black were what they called the non-Communist crew members, who were not sufficiently politicized to be in the party. The names that were typed in red were members [fol. 57] of the Marine Club, which is the maritime section of the Communist Party, or the Labor Progressive Party, and Salsberg told me that the underlined ones belonged to the M-Apparat.

Mr. Tavenner: Will you spell that, please?

Mr. Walsh: Apparat is spelled A-p-p-a-r-a-t.

Mr. Tavenner: What does that term mean?

Mr. Walsh: Well, to top Communists who were familiar with the Comintern in the days before it was dissolved and replaced by the Cominform, the M-Apparat was the Maritime Apparat, which was the worldwide international organization of top Communist agitators aboard ships and among the dock workers.

I am going to deal at length later on with the new organization which has taken on a new name. So, I do not want to go into too much detail at this moment about the work of these Apparat agents on board the ships.

Mr. Scherer: Mr. Witness, I understand that during this whole period that you have testified about and about which you are going to testify, your primary loyalty was to the Communist Party and the Soviet Union and not to the Canadian Government or to the labor unions with which you were affiliated; is that a correct statement?

Mr. Walsh: That is correct.

Mr. Tavenner: Now, you were describing to the committee the explanation that J. B. Salsberg was making to you at the time he had the map of the world on the floor in front of you. Will you proceed, please, sir?

Mr. Walsh: Salsberg explained to me that the CSU deep-sea strike was forthcoming and that it was the desire of the party that I should take an active part in this strike and that I should go on a ship as a seaman and prepare the groundwork in the various ports of Europe in order to be able to be assured of the solidarity of the workers who were also Communist-controlled and to carry on what we call liaison work with the various sectors of the maritime section of the party.

As I pointed out before, Salsberg stressed the fact that I was French-speaking and they were having a little trouble with the French-Canadians who were very anti-Communist and that my presence in the union, both on shore and on ships, would contribute to win over the French-Canadian membership to follow the party line when the time came for a strike.

Mr. Tavenner: May I ask you at that point: Did I understand that at this meeting with Salsberg these other persons whom you mentioned were present also?

Mr. Walsh: Yes; they were present throughout, but generally it is only Salsberg who spoke—and in this instance Ferguson, who was the CSU vice president, also had a word to say every once in a while, but it was Salsberg who was the main speaker; and generally—I've attended probably hundreds of these trade-union commission meetings and Communist Party discipline always underlines the fact that directives should only be given by the trade-union commission director, which was and still is J. B. Salsberg.

Mr. Tavenner: Well, did Mr. Salsberg describe why you had been chosen to perform this particular assignment in any manner other than what you have described?

Mr. Walsh: Well, as I pointed out, one of the main reasons was because I was known as a Communist who had experience abroad; that I had been to Europe and that I had been in touch with the Communist Parties in France and Belgium and Holland, and because—at this point I wish to state that I forgot to mention that after being arrested and sent to England I was not given a trial because the end of the war was approaching, and that I wasn't the only one who was arrested, and I was sent back to the Continent.

Mr. Scherer: May I again interrupt, Mr. Counsel?

Mr. Tavenner: Yes, sir.

Mr. Scherer: Your arrest on the Continent arose out of some speeches you made at Communist meetings after you arrived with the Army; is that right?

Mr. Walsh: That's correct.

Mr. Scherer: I would be interested to know what the agitation was among the French and Belgian Communists that you advocated at that particular time.

Mr. Walsh: Well, at that particular time, for example, in France, the agitation of the Communist Party was to bring pressure upon the new de Gaulle government, so that the Communist Party chieftain, Maurice Thorez, who had deserted the French Army and had hidden away in Moscow during the whole war—so that he could be pardoned and brought back to France, and that the Communist Party could take over a leading part in the new French Government.

Mr. Scherer: These directives all came from the Soviet Union; is that right?

Mr. Walsh: All these directives were being funneled through by Communist Party leaders in Great Britain to the soldiers, and we on the continent were continually getting Communist propaganda from Canada and from Great Britain, and we knew what the Communist Party line was all the time.

Now, when we came to France we got copies *L'Humanité*, the organ of the French Communist Party, and also got copies of the *Drapeau Rouge*, which was the organ of the Belgian Communist Party.

Mr. Scherer: There is no question in your mind, however, but that these directives originated in the Soviet Union, no matter what sources were used through which they were funneled to you?

Mr. Walsh: No; there was absolutely no hesitation in my mind because [Maurice] Thorez, the French Communist Party leader, was speaking every day over Moscow radio and urging the French Communists to agitate for his re-entry into the country.

Mr. Tavenner: Will you spell the name?

Mr. Walsh: Thorez—T-h-o-r-e-z—and his first name is Maurice—M-a-u-r-i-c-e.

Mr. Kearney: You say that for your activities in this connection you were brought to England under arrest. Did you later receive an honorable discharge from the Canadian Army?

Mr. Walsh: I didn't get your question, sir.

Mr. Kearney: Did you later receive an honorable discharge from the Canadian Army?

Mr. Walsh: Yes; I was honorably discharged. That was after the—

Mr. Kearney: That was after the first discharge, which was dishonorable, and you were allowed, when the Communists were taken in the army, to reenlist?

[fol. 59] Mr. Walsh: Yes; that is correct, because the Canadian Government at that time was led to believe that the Communists were cooperating wholeheartedly in the war effort, and all Communists were allowed to enlist in the Canadian Army.

Mr. Kearney: So that when you were finally discharged you were given an honorable discharge?

Mr. Walsh: I was given an honorable discharge, as were hundreds of other Communists who took part in Communist agitation in the armed forces.

Mr. Scherer: Did the Communists take credit for the opening of a second front in Communist Party circles?

Mr. Walsh: Yes; the Communists always exploit these things, even when they are not responsible for them. So, in this particular instance, they clamored in party organs, from Australia to Iceland and from Moscow to Toronto, that the second front was opened because of pressure being brought by Communists of the world for the opening of a second front.

Mr. Kearney: Proceed, Mr. Counsel.

Mr. Tavenner: I believe you were describing the reasons why you were assigned to this particular task in the Canadian Seamen's Union. Had you had any previous experience as a seaman?

Mr. Walsh: No; I had no experience whatsoever as a seaman, and I was a little reluctant to take on this assignment because I told Salsberg that I didn't know the bow

from the stern of a ship, and Salsberg laughed and told me the national secretary-treasurer of the union, T. G. McManus, had never been on a ship in his life and that I shouldn't worry about these things, that everything would be arranged so that I wouldn't have any difficulty.

Mr. Tavenner: Well, did you accept the assignment when Salsberg requested you to accept it or were you told to accept it?

Mr. Walsh: Well, in the Communist Party you haven't got the choice. When you're ordered to do something, you just do it. So, I did it.

Mr. Scherer: You mean they have no freedom in the Communist Party?

Mr. Walsh: No; there's absolutely no democracy in the Communist Party, especially when you get in the top echelons, and you're just ordered to do these things and you just do it.

Mr. Kearney: That is a little contrary explanation to the explanation of Communist leaders throughout the world, isn't it?

Mr. Walsh: Yes, but the facts bear it out. I don't think Comrade Beria was consulted about whether he was to be arrested or not.

Mr. Tavenner: What were you told to do?

Mr. Walsh: Well, I was told that I would go to Montreal and that Harry Binder, whom I have mentioned previously, and whose name will come up quite frequently because he is one of the top Communist organizers in Quebec Province, and he has taken the place of Fred Rose. So, I wish to mention that because I will mention Mr. Binder's name quite often. I was told to report to Harry Binder and that Binder would give me further instructions and other details about how I should get on a ship and become a member of the Canadian Seamen's Union.

[fol. 60] So, I reported back to Montreal, and I went to Communist Party headquarters on St. Catherine Street—254 East St. Catherine Street to be exact, and there Harry Binder told me I was to go to Quebec City and that Ray Collette, who was the business agent of the Canadian Seamen's Union for Quebec Port, would see to it that I got on a ship.

Mr. Tavenner: Spell it.

Mr. Walsh: Collette, as spelled, C-o-l-l-e-t-t-e. His first name is Ray, for Raymond.

Mr. Tavenner: Did you go to see Mr. Collette?

Mr. Walsh: Yes; I went to see Collette. Immediately after I went to Montreal, I went to Quebec, and the next day I sailed out of Quebec for Hamburg.

If you are interested in how I got on the ship, I think it is worth while explaining, because it shows the typical brutal fashion in which the Communists carry out such assignments.

The steamship *Mont Rolland* had left Montreal the day before.

Mr. Tavenner: Spell the name, please.

Mr. Walsh: *Rolland—R-o-l-l-a-n-d.*

It was a 10,000-ton cargo ship, and it had a stopover at Quebec Port, and Collette, myself, and two other CSU strong-arm men—we went aboard the ship and we told the galley boy to pack his belongings and to get off the ship, and when the galley boy protested the strong-arm men just grabbed him, along with his baggage, and the captain wasn't consulted, or anything, and the ship sailed a few hours after, and I was the galley boy.

Mr. Tavenner: Well, did you perform the duties of a galley boy in the various voyages of the ship?

Mr. Walsh: No; I soon discovered that the galley boy was a job which you probably know is—he keeps the galley clean and peels potatoes, and I thought it was a very tedious job at first, the first few hours I got on there, but no sooner had I been on than I was told George Scordas—S-c-o-r-d-a-s—who was the leader of the Communists on board the ship, that seamen on the deck would come into the galley every day and do the work I was supposed to do, and for which I was being paid, and that I should go back aft in my quarters and do work on the typewriter and take care of the Communist library, prepare for the ship's meetings which we held every week, and to carry on classes in Marxism. So, I soon discovered that I was a privileged passenger aboard the ship.

Mr. Tavenner: Before you describe what you were to do in carrying out the mission that had been given you by Mr.

Salsberg, I would like for you to first tell the committee whether or not this seamen's strike, which was being prepared for at that time, was part of an international conspiracy aimed at the shipping of the world.

Mr. Walsh: Yes; I will prove later on in my testimony that this strike was a political strike which had no bona fide trade-union principles involved whatsoever and that it was being ordered by the Cominform, which is the international section and which faithfully carries out the dictates of the Soviet Union, that this strike was being organized with the end in view of tying up shipping in ports all over the world so that Marshall plan shipments would not be delivered in time or the cargoes would rot and at the same time it was expected to deal a crippling blow to the Atlantic [fol. 61] Pact which the Communists were vigorously opposing at that time all over Europe.

Mr. Tavenner: What was the particular function that you were to perform in helping to prepare for what you later found to be the conspiracy which you have described?

Mr. Walsh: Well, I found out that my particular function was to contact the Communist dockers' unions in all the ports that my ship visited, and it was merely to confirm and to assure, to be assured, that these dockers, the unions, would pledge solidarity strikes when we would tie up the ships in these ports, so that shipping would effectively be paralyzed.

So, in all the ports to which I went, I immediately got in touch with Communist Party headquarters or with headquarters of the various dockers' unions, in ports like London, Hamburg, Antwerp, Genoa, Naples, Bari, Izmir, and so on and so forth.

Mr. Scherer: What reasons did the Communist group offer to the rank and file of the labor unions for tying up the shipping? You didn't tell them the truth, did you?

Mr. Walsh: No. Well, as always in these things, what we said publicly and what we did secretly were two different things. We had to tell the rank and file that negotiations were being stalled by the shipowners, because the shipowners were not going to play ball with the union, and so on and so forth; but in reality the preparations were going on all the time for this strike. Whether the shipowners

signed the contract or agreed to sign the contract or not, the preparations were going on and we didn't bother or care about the negotiations which officially were going on.

Mr. Kearney: Where did the orders for this strike come from?

Mr. Walsh: Well, the original orders came from Vassili Vavilkin, who was in complete charge of the maritime—I will spell that: Vassili—V-a-s-s-i-l-i—his first name; and his second name is Vavilkin—V-a-v-i-l-k-i-n.

Vavilkin is the Russian Communist who is today and at that time was in charge of the maritime apparatus of the Cominform, and today he is the secretary. He is the first vice president of the World Federation of Trade Unions' section, which is known as the Seamen and Dockers International.

Mr. Scherer: He is a resident of what country?

Mr. Walsh: He lives in or around Moscow, I believe.

Mr. Kearney: You mean Moscow, Russia?

Mr. Walsh: In the Soviet Union; that's correct.

Mr. Tavenner: Now, will you state to the committee, please, just how your connection with this strike developed and how the plan was finally made known to you?

Mr. Walsh: Well, I gradually got to know what the plan was because before I got on the ship Ray Collette, whom I have mentioned previously and who was one of the top Communist leaders of Canada—and I would even say that he belongs to the Soviet underground because he has been involved in sabotage—Ray Collette told me that aboard the ship I would meet some old-time Communists like Bob Pieluk.

Mr. Tavenner: Will you spell these names, please?

[fol. 62] Mr. Walsh: Bob—B-o-b; second name in Pieluk—P-i-e-l-u-k. George Scordas—S-c-o-r-d-a-s, Mike Zanyuk—Z-a-n-y-u-k, and Blackie Leonard—L-e-o-n-a-r-d.

Now, these Communists had been engaged in the same type of work that I was to do, but they had been handicapped by the fact they could not speak French and had no experience whatever on the Continent, whereas I had lived for some time, both in France, in Belgium, and in Holland, and I had known the leaders of the Communist Party and I had worked with them and I could either speak French

or I could understand enough Dutch to be able to get along better than the comrades I have previously mentioned.

Mr. Scherer: Where did you get your pay from during all this period?

Mr. Walsh: Well, the main pay I was getting was from the shipping companies, who were paying me as a galley boy, although I wasn't doing the work.

The Canadian Seamen's Union had such a stranglehold over the companies that the companies could do very little about these things. Although the companies undoubtedly were aware that there were many things going on aboard their ships which had nothing to do with trade unionism, they could find no way of getting rid of the union.

Mr. Scherer: You mean you were willing to do all these things during the period you were on the ship at least, for a galley boy's compensation? Was your fanaticism that great?

Mr. Walsh: Well, the galley boy's compensation, with overtime, which was always automatically accorded, amounted to about \$300 a month, which is considered to be very high wages in Canada because on board ship you don't pay any board, you see.

Mr. Scherer: Did you work overtime—

Mr. Walsh: No.

Mr. Scherer: Or was that just a means—

Mr. Walsh: It was all arranged.

Mr. Scherer: Of getting you extra compensation?

Mr. Walsh: Yes. Of course, the cook, for example, who was also a Communist, always saw to it that I got 50 or 60 hours overtime each trip for painting the galley, something like that, things which other people had done.

Mr. Scherer: You got no additional compensation from the Communist Party during that time?

Mr. Walsh: No; not during that time, although there were other ways and means that the Communists take—for example, like I am a married man and I have children, and the Communists used to see to it that my children had sufficient clothes so my wife didn't have to worry about that part of the budget.

Mr. Scherer: In other words, at least while you were a

galley boy, the shipowners would pay for the Communist activities aboard their ships—

Mr. Walsh: Yes.

Mr. Scherer: Through fraud and deceit practiced upon them.

Mr. Walsh: They were doing it unknowingly.

Mr. Scherer: Unknowingly, of course.

Mr. Walsh: But that is what it boils down to.

[fol. 63] Mr. Scherer: I said through fraud and deceit practiced upon them.

Mr. Tavenner: All right; you were describing your activities which led up to your final discovery of the plan that was to be put into effect.

I think you stated to the committee that you were told certain things by Collette. I am not certain whether you completed your statement with regard to that or not.

Mr. Walsh: Yes. Collette told me that the Communists on board would give me the names and addresses of contacts in all the ports wherever I went.

Now, Collette, himself, gave me a list of names because he, himself, was often at sea, too, on various assignments of courier work for the Cominform.

These business agents were not always in their offices. Every once in a while one of them would take a trip for some very mysterious reason.

Mr. Tavenner: Well, were you successful in all instances in getting promises of assistance from the dock workers in the so-called solidarity strike which was to follow?

Mr. Walsh: Well, yes and no. The unions, of course, who were controlled by the Communists. We had no difficulty in getting their pledges of solidarity because they had been approached previously and they knew the score. They were already prepared for this, and we had no difficulty, of course, with Communists because all Communists just take their orders and there's no question about it. They knew the CSU strike was a strike that was supposed to be made in the interests of the Soviet Union in the European ports of France and places like Antwerp and the Italian ports. The dockers were very communistically inclined. They had even tossed munitions overboard. In Antwerp they circularized antiwar pamphlets to American seamen.

But where we came in contact with non-Communists or anti-Communist dockers' unions, of course, we couldn't get any headway because these people did not believe in political strikes for the furtherance of the Soviet Union and we got no headway with these unions.

Mr. Tavenner: Were you required to make reports of the result of your work in attempting to line up the dockworkers in these various ports?

Mr. Walsh: Yes; I had to continually send to André Fressinet, the secretary general of the Dockers' and Seamen's International. I will spell that: André—first word—A-n-d-r-é; his family name, Fressinet—F-r-e-s-s-i-n-e-t—and his function—he was secretary and still is secretary-treasurer, or, as they call it in France, the general secretary of the Seamen's and Dockers' International Section of the World Federation of Trade Unions.

Now, that's the name which is used in the abbreviation, but the real name—and I think for purposes of being correct—the real name is the International Trade Unions of Inland Waterways' Workers and Seamen, Fishermen and Port Workers. That is the official name that is known in the documents, some of which I have with me and which I could submit to the committee if they so desired.

Mr. Tavenner: Now, in these reports which you have mentioned, can you tell the committee, from your recollection of them, how many of these various ports that you had visited you had reported would act favorably in the event of a strike?

[fol. 64] Mr. Walsh: Well, I do not want the committee at this instance to believe that it was solely due to my personal intervention that I was influencing these dockworkers to go out on strike. I was merely doing contact work, and it was merely another phase of what the Communists often refer to as double checking. The dockworkers were checking on the seamen's union and we were checking on the dockworkers' unions, because we are always on the lookout for what we call traitors and for people who are lukewarm; and at that time in Europe the A. F. of L. had sent Irving Brown to combat these Communist inroads, and we were having trouble, especially in Marseilles, France, with the anti-Communists within the dockworkers. So, at

that time it was very necessary for us to be in continual contact, as much as possible, with the dockworkers' union, so that we would know exactly where we could count upon a solidarity strike of the dockworkers.

Now, in this respect I wish to point out at this stage that, for example, in Great Britain the Transport and General Workers' Union which has control over the dockworkers' section, is a very anti-Communist union and the leadership is a very anti-Communist one. The late Ernest Bevin of the British Government was the leader of this union, and he has always been known as an anti-Communist; but the fact is so-called rank-and-file committees had managed to gain control over various strategic sections situated in places where we could actively paralyze the docks in London, for example, and this is what actually took place, as I will explain later on, so that it was very important to contact rank-and-file committees because we could count upon them to create chaos and havoc and sometimes to intimidate and persuade non-Communist dockworkers to follow us in this strike.

Mr. Tavenner: When you refer to rank-and-file committees, are you speaking of the committees of the legitimate labor unions or the rank-and-file committees of the Communist Party?

Mr. Walsh: Well, I'm referring to rank and file committees in legitimate trade unions, but who are composed largely or entirely of Communists or sympathizers.

Mr. Tavenner: Will you proceed, please, to describe the course of your work which you have told us about?

Mr. Walsh: Well, the first and the most complete picture I had of what was to be expected occurred when my ship was in Genoa.

Now, for the purpose of clarification, I think it is necessary for me to point out that the Dockers' and Seamen's International in Paris—that is the World Federation of Trade Unions' main office—receives from all over the world the sailing schedules of all ships, because nearly all the shipping companies publish in various newspapers, sometimes 2 months in advance, the sailing schedules of their ships.

Now, Communists and special research people are assigned to the task of seeing that all these shipping schedules are sent to the World Federation of Trade Unions' office. So, by this way Fressinet knew exactly where all the ships were and the Communists have been known to boast that they have Communist agitators on board nearly every deep-sea ship.

So, when I came into Genoa it was no surprise that André Fressinet knew I was coming there, that the *Mont Rolland* was due to touch in Genoa, because we had touched on 6 or 7 Italian ports previously, and I was told to report [fol. 65] to the CGIL, or to the Italian General Confederation of Labor, which is the biggest trade-union body in Italy and is completely controlled by the Communist Party.

I was told to report to this building—and at this stage I've explained to you how I became a galley boy without working as a galley boy. I think from the viewpoint of studying Communist methods and utilizing seamen that it would be very interesting for me to point out that whenever a ship touched port that the Communist Party in these ports used to send what we called replacements. For example, if I were in Genoa or Turin, or wherever I happened to be, the Communist Party, if they wanted me for 2 or 3 days to do work, or liaison work, or something, would send somebody to take my place. So, the captain wouldn't have anything to say because somebody was taking my place; but this was made without the authorization or permission of either the shipping companies or the captain. It was done on our own initiative, and there was very little the captain of the ship could do about it.

Now, when I got to Genoa at this particular time somebody came on board the ship and identified himself and told me that Comrade Walsh had to report to the office of the General Confederation of Italian Labor—and, being security conscious, or course, he did not tell me anything else.

So, I went to this meeting, which was held in the big conference room, and there I met all the top Communist agitators in the maritime section of the Cominform.

Mr. Kearney: Now, at that point, Mr. Walsh, you refer

to the fact that at that time you met all the well-known leaders of the Cominform throughout the world, did I understand you to say?

Mr. Walsh: No; throughout Europe, with one exception. There was one Communist from Cuba who was present.

Mr. Kearney: Were there any there from the United States?

Mr. Walsh: No; to my knowledge, there were no Americans there whatsoever.

. There were about 40 people who were present, and among them—many I have mentioned previously, like André Fresinet—Marino De Stefano. Marino is spelled M-a-r-i-n-o; De Stefano—D-e S-t-e-f-a-n-o.

Mr. Scherer: Well, following up on Chairman Kearney's question, was this conference that you are about to describe supposed to include American Communists or was it a conference confined to the European theater?

Mr. Walsh: Well, it wasn't a public conference.

Mr. Scherer: I understand that.

Mr. Walsh: It was merely a Communist get-together of top leaders; and, for example, if Harry Bridges would be there, he would have been welcome because he was the vice president of this organization and his name has appeared officially—

Mr. Kearney: What do you mean by that expression "Harry Bridges would have been welcome"?

Mr. Walsh: Because at that time Harry Bridges was trying very hard to get a passport to come to Europe, because he was known as one of the top leaders of the maritime section of the Cominform, and because of that efforts were being made to have Harry Bridges to come to this meeting and to other subsequent meetings which were held in Marseilles and in Warsaw.

[fol. 66] Mr. Kearney: Do you have any knowledge of your own as to whether Harry Bridges was a member of the Communist Party or not?

Mr. Walsh: Well, I haven't got any positive knowledge, but among seamen and dockers it was commonly acknowledged that he was a member of the Communist Party or, if he wasn't he was certainly doing everything that Communists were doing in the maritime section—and we could

see, for example, in publications of the Communist Party, of seamen and dockers' workers' unions, that Harry Bridges even had articles. For example, I have an article here from a French Communist paper of Harry Bridges, which I could submit to the committee, and I've seen various articles of Bridges in Italian and Hungarian and German and Dutch and French papers.

Mr. Scherer: There wasn't any question in the minds of those individuals like yourself who were acting in the Communist Party that Harry Bridges was a Communist, was there?

Mr. Walsh: No, because Pat Sullivan, the founder and the president of the Canadian Seamen's Union, told me that Harry Bridges and himself and other American Communists—that they met in the Morrison Hotel in Chicago, I believe, and that they had decided to coordinate plans in Canada for the eventual taking over of longshoremen's unions, which were then controlled by the International Longshoremen's Association.

Mr. Scherer: Who would take over? What do you mean?

Mr. Walsh: Harry Bridges' outfit—the International Longshoremen's and Warehousemen's Union.

Mr. Kearney: Proceed.

Mr. Walsh: I am continuing to name some of the other people.

I believe I haven't spelled De Stefano—D-e S-t-e-f-a-n-o. He is the leader and was the leader at that time of the Italian Seamen's Union, which is completely dominated and controlled by the Italian Communist Party.

Hoiting—H-o-i-t-i-n-g, of the Dutch Seamen's Union; Van Den Branden—that's three words—V-a-n D-e-n B-r-a-n-d-e-n—of the Antwerp Dockers' Action Committee.

This group is an insignificant splinter group of Communist agitators because the main body of dockers in Antwerp are now very anti-Communist and they have refused to obey orders not to unload American material, despite Communist attempts at intimidation.

Otto Schmidt—O-t-t-o; Schmidt—S-c-h-m-i-d-t. He is an official of the Austrian Inland Transportation Workers, another Communist union that is affiliated with the World Federation of Trade Unions.

Salvadore Gomez—S-a-l-v-a-d-o-r-e; and Gomez—G-o-m-e-z—of the underground Communist Party of Spain. G-o-m-e-z at that time was staying in Tangier—in the International Zone of Tangier.

Luigi Longo—Longo is spelled L-o-n-g-o—he is a prominent leader of the Italian Communist Party and the former political commissar of the International Brigades in Spain.

Jock Hastings—Hastings, H-a-s-t-i-n-g-s—is from the British Dock Workers' Rank and File Committee. He is a well-known Communist agitator in the dock section.

And Pontikos—P-o-n-t-i-k-o-s—who claims to represent the Greek Maritime Federation, which is today nonexistent, except in the imagination of a few Greek Communists in New York, one of whom I believe is under deportation, Kaloudis; and in Marseilles and Cherbourg these Greek [fol. 67] Communists have been either deported from various countries or are under open arrest in their own country for Greek activities, like sabotage, espionage, and so forth—revolution activities.

And the Cuban I mentioned was Lazaro Pina—two words—L-a-z-a-r-o; and his family name, P-i-n-a. He is an official, or was an official, of the Cuban General Workers' Federation, which is affiliated to the Latin Confederation of Trade Unions, of which the well-known Communist, Lombardo Toledano, is president. Toledano is spelled T-o-l-e-d-a-n-o.

Now, Pina was arrested last year in Cuba as he came back from his secret World Federation of Trade Unions' meeting. The Cuban General Workers' Federation—

Mr. Kearney: Is this the meeting at which plans were discussed for this worldwide shipping strike?

Mr. Walsh: This was the first time that I actually knew the score as to what their intentions were. It happened during this meeting.

Mr. Kearney: And those intentions, as I asked, for a worldwide shipping strike were first discussed at that time?

Mr. Walsh: Exactly.

Mr. Kearney: At that meeting?

Mr. Walsh: Exactly.

Mr. Kearney: I would like to suggest, Mr. Counsel, that we proceed to a discussion of those plans because I would like to take a break at 12 o'clock and recess until 1:30.

Mr. Tavenner: Very well, sir.

Will you proceed to state what occurred at that meeting?

Mr. Walsh: The main speaker—as you all have realized—you have people who speak many languages; so, it was decided that the speeches would be made in Italian and in French, and Fressinet was to be the main speaker, and he spoke in French, and I spoke in French, and Longo spoke in Italian and Gomez, I believe, spoke in Spanish; but the main speaker was Fressinet, and then it was translated into Italian for the benefit of the others who could not understand French.

Now, from what I gathered, French seemed to be the language which was understood by all the organizers. So, I was very sure of what transpired during the French speech. The French speech of Fressinet—there were no attempts at all to camouflage the reasons behind the coming strike.

And in this respect I wish to point out that in France and in Italy, among the Communist Party, you haven't got the continual attempts at camouflaging intentions as you have, for example, in the United States here, or in Canada, where the parties sometimes adopt the seeming underground methods; and the reason—I think the main reason—for that is the French Communists are so cocky in the belief of their strength that the French Government won't dare touch them, and the same thing applies to the Italian party, that they don't beat about the bush. They go directly to the point. It has been my personal experience that when these people speak about sabotage, they mention the word "sabotage," whereas in Canada or in the United States I think the words are never mentioned. It's often accomplished, but it's never mentioned.

So, Fressinet's speech was to the effect that the Marshall plan to aid Europe or to aid the underfed populations of Europe would defeat the Communist Party plans in Italy and in France particularly, where the Communists were [fol. 68] busy exploiting the discontent that was evident everywhere due to the postwar conditions in these countries.

Now, Fressinet said that originally the plan had been to involve the National Maritime Union at the same time as the Canadian Seamen's Union, so that the strike would be

more effective, but in the meantime Fressinet explained that the National Maritime Union had broken away—that is, the leadership had broken away—from the Communist Party and that nearly all the Communist leaders who had been there for a long time had been expelled. So that they could not count on the National Maritime Union either joining this strike of their own free will or of going on a solidarity strike; but Fressinet pointed out that happily the Canadian Seamen's Union was a union which was not a reactionary one and that it was in the hands of militant comrades and that the shipping tieup which would result in both Canada and the European countries would effectively paralyze all the ports of Europe and would deal a crippling blow to both the Marshall plan and to the Atlantic Pact, because the dockers had been, of course, briefed and approached and ordered to go on strike in all the ports and to tie up shipping, which meant that it was not only the case or the question of tying up Canadian ships. It was the question of—if the ports were paralyzed by these ships, that the strike would spread and that all other ships of other nations, or of Panamanian registry, would then be immobilized and the Marshall-plan cargoes would rot and that sailing schedules would be behind time, and so on and so forth, and that the Communist Party would actively exploit the result of this strike.

Now, after Fressinet spoke, Longo gave an agitational speech in Italian, which I could see was along the same lines. Now, previous to this I had seen copies of *For a Lasting Peace for a People's Democracy*, which is the organ of the Cominform, and I could see the party line against the Marshall plan and the Atlantic Pact was merely being implemented in the speech given by Fressinet.

Now, after Longo's speech, Fressinet asked me to give my opinion of what the strike would be from the CSU viewpoint, and I told him that the members of the CSU were being prepared for the coming strike and that we would certainly play our part and that we had a militant background and that we would certainly contribute our part in seeing to it that the strike was a success.

Now, in referring to the strike, I was given by Fressinet

at that meeting the assignment that I should be transferred to the *Beaverbrae*, and that is when I found out—

I am going to spell that name—*Beaverbrae*—*B-e-a-v-e-r-b-r-a-e*. It is owned by the Canadian Pacific Steamships. This ship was to be the key ship in the forthcoming strike.

Mr. Tavenner: When did you learn that fact?

Mr. Walsh: I learned it only at this meeting—that that was the ship that was chosen by Fressinet.

Mr. Tavenner: Well, the plans went far enough to indicate what the key ship should be in this strike during the progress of this conference?

Mr. Walsh: Well, I think that it would be more precise to say that before this conference Fressinet had plans beforehand and he knew that the *Beaverbrae* was going to be the [fol. 69] key ship, because undoubtedly, and in fact, he was in touch with Harry Popovich, who was the leader of the Canadian Seamen's Union.

Popovich—P-o-p-o-v-i-c-h. He is known in Canada under the alias of Harry Davis.

Mr. Tavenner: Well, the point is that you as well as the other persons present were advised at this meeting that the *Beaverbrae* would be the key ship in the oncoming strike?

Mr. Walsh: Yes; yes.

Mr. Tavenner: All right; proceed.

Mr. Walsh: Now, Fressinet told me that it would be very important if I should get on the *Beaverbrae* and that I should take part in the coming London dock strikes, that was from the question of experience and because also that I was held in high esteem by the section—by the maritime section of the Cominform.

Now, I wish to stress the fact that this was not a trade-union meeting. This was a meeting of Communist Party agitators.

Mr. Tavenner: Was any matter discussed at that meeting regarding the welfare of seamen generally or any resolutions regarding a wage dispute in which the seamen would be interested?

Mr. Walsh: No; and that is something that scandalized me at that time, because, although I knew Communist tactics, I didn't know they could be so blunt as that. There was absolutely no mention whatsoever, and when I suggested to

Fressinet that we arrange the agenda before, he told me that it was not necessary; that the main thing was that it was going to be against the Marshall plan and in Europe that we didn't have to find excuses for these things, but that in Canada that it was very obvious we had to convince the rank and file that it was to be carried out for trade-union purposes, involving trade-union principles.

Mr. Scherer: Did I understand you to say that Harry Bridges was attempting to obtain a passport to attend this meeting?

Mr. Walsh: To attend this meeting and subsequent meetings of the same people.

Mr. Scherer: I thought that was it.

You said this was a meeting of Communist agitators and not a union meeting. That is your testimony?

Mr. Walsh: Yes; they were purely Communist agitators, although most of them belonged to Communist unions.

Mr. Scherer: Oh, I understand that. They would have to belong to Communist unions.

Mr. Kearney: There were no others allowed there, other than members of the Communist Party, were there?

Mr. Walsh: No; very definitely. In fact, I forgot to mention that there were two Italians with Sten guns who were standing outside the building in case some police happened to interfere. This was a very top-security meeting.

And I don't know if the committee is aware of the influence of the Italian Communist Party in Genoa or in Milan or in northern Italy, but the Communists there are very strong, and I know when I went there in 1947 or 1948 that it was not an exception to see Communist pickets, for example, on strike walking up and down.

Mr. Scherer: The committee just doesn't want them to get that strong in this country, in the city of Albany.

[fol. 70] Mr. Walsh: They were going around with Sten guns on their shoulders.

Mr. Tavenner: Now, I am anxious for you to recall all the circumstances and all the statements that you can recall as to what plans were announced at that meeting and what part various persons played in the meeting.

You have told us that you were directed to become a member of the *Bearerbrae* crew.

Mr. Walsh: Yes.

Mr. Tavenner: That is where you stopped when we began talking about other matters.

Mr. Walsh: Yes; I mentioned that.

Now, it was explained that the nerve center of the forthcoming strike would be the greatest seaport in the world, the London docks, but that arrangements had been made in places as far off as Australia and New Zealand, for example, that these unions would demonstrate their solidarity and would go on strike and would refuse to load or unload ships.

Mr. Tavenner: Just a moment.

Mr. Chairman, I realize it is going to run considerably past 12 o'clock to complete this testimony regarding this meeting and I believe that, unless you desire to go on for 20 or 30 minutes, this would be a good place to make a break.

Mr. Kearney: The committee will be in recess until 1:30.

(Whereupon, at 12:05 p. m., the hearing was recessed, to reconvene at 1:30 p. m. of the same day.)

Afternoon Session

(At the hour of 1:32 p. m. of the same day, the hearing reconvened, the following committee members being present: Representatives Bernard W. Kearney (chairman of the subcommittee) and Gordon H. Scherer.)

Mr. Kearney: The committee will be in order.

Proceed, Mr. Counsel.

Mr. Tavenner: Mr. Walsh, how many persons spoke at this meeting in Genoa which you have described?

Mr. Walsh: Apart from the persons whom I have previously mentioned, there were two other speakers—Lazaro Pina and Jock Hastings from Great Britain.

Mr. Tavenner: Will you give the committee a résumé of anything they may have said that you now recall?

Mr. Walsh: As Lazaro Pina was the only other person coming from the American Continent, it was very important that he should stress the fact that arrangements had been made with Ferdinand Smith, who was the former national secretary of the National Maritime Union.

Mr. Kearney: Is that Ferdinand Smith?

Mr. Walsh: Ferdinand Smith—S-m-i-t-h—so that east coast cooperation would be attempted.

Mr. Tavenner: East coast of what country?

Mr. Walsh: The east coast of the United States, and that Pina had seen Smith on several occasions map out plans by rank-and-file committees of dock workers' unions and the National Maritime Union would try and coordinate their work with the CSU strike.

[fol. 71] Mr. Tavenner: How did you learn those facts?

Mr. Walsh: Some people who were on the ship, like Scordas, had told me that Conrad Sauras—S-a-u-r-a-s—who was the vice president of the CSU had been down to the United States to meet Smith and to work out arrangements, and that he had also been to Cuba previously to arrange meetings with Communists like Lazaro Pina and others who belonged to the Communist unions in Cuba.

Now, I mention this fact because later on in my testimony we will see that there were attempts carried out in Cuba to support this strike; but the main point of Pina's speech was to assure everyone that the dockers on the east coast would come out in sympathy strike with the CSU strikers and would paralyze the various American ports.

Mr. Tavenner: That, as I understand, was discussed at this meeting which you mentioned?

Mr. Walsh: This was discussed at this meeting.

Now, the next speaker was Jock Hastings, who represented the dockers' rank-and-file committee of Great Britain. Hastings pointed out that Jack Popovich—P-o-p-o-v-i-c-h, alias Jack Pope—P-o-p-e, who, incidentally, is the brother of Harry Popovich mentioned previously—that Popovich was to take up residence in Great Britain and, in coordination with the Communist Party, would see to it that all the rank-and-file Communists within the Dockers' Union would be ready to actively support the forthcoming strike.

Hastings also remarked that if this strike could last a year that not only would the London docks be tied up, but all the other British ports would be so paralyzed that it would effectively paralyze both the Marshall plan and deal a crippling blow to the Atlantic Pact.

Mr. Tavenner: Will you tell the committee, please, what plans were made and what preparation was made to put the *Beaverbrae* in a position or in a condition which would permit of the execution of these plans?

Mr. Walsh: As the *Beaverbrae* was the key ship—that is, the strategic ship which would give the signal for the strike—it was very important that aboard this ship the Communists should have old-time members of the party, who would be reliable, and who would be ready to carry out their tasks, even in the face of imprisonment.

With this end in view, the Communist Party apparatus in St. John, New Brunswick, where the *Beaverbrae* had its port of call, arranged to have non-Communist crew members replaced by trusted Communist Party members, so that when the *Beaverbrae* was ready for the strike there would be old-time, trusted Communist members on board the ship who would not hesitate to carry out to the full the orders to see that the port of London was effectively paralyzed when the *Beaverbrae* was tied up and the dockers went out under the prearranged plans.

Mr. Tavenner: Was that done?

Mr. Walsh: Yes; the *Beaverbrae* sailed with the choicest selection of Communist agitators that ever were found aboard one ship.

Mr. Tavenner: What else was done in order to prepare the *Beaverbrae* and its crew for the impending strike?

Mr. Walsh: As I mentioned previously, Jack Pope had contacted the dockworkers' section of the party and everything was being prepared in London; Communist members were replacing non-Communist members aboard the *Beaverbrae*, and also aboard the *Mont Rolland*, which was the [fol. 72] ship I was sailing on, at least 4 or 5 persons who were found to be unreliable from the Communist Party viewpoint were put off the ship and replaced by trusted Communist organizers.

Previous to that we had to have a meeting so that everything would be timed—that when the *Beaverbrae* finally left port—that the signal for the strike would be sent out to ships all over the world, because these Canadian ships were not only sailing on the Atlantic, they were also, some of them, sailing on the Pacific.

And I think that the very important factor which should be stressed here is that the Communist plan was aimed primarily at the Atlantic Pact and the Marshall plan shipments, which is borne out by the fact that on the west coast the CSU immediately signed an agreement with the west coast shipowners, because the west coast shipowners were not involved at that time in carrying vital cargo to European countries, but were going to Japan and China; and it is significant that when the CSU signed the separate agreement with the west coast shipowners that there were no wage increases granted or no improvement of working or living conditions in the contract. It was the same contract as before.

So, it could be plainly seen that the strike was directly aimed at crippling the Atlantic shipping, but to cover up—

Mr. Kearney: Who was in control of the union on the west coast?

Mr. Walsh: That is just what I was going to explain.

To cover up this duplicity and this double-face dealing, the west coast union went through the pretext of saying they had formed another union, and that they disagreed with the policy of the east coast section of the union and they formed the West Coast Seamen's Union and signed the separate contract.

This was a camouflage tactic in case that the rank and file on the east coast would get wise to the fact that a political strike was in the offing and not a strike involving basic trade-union principles.

The West Coast Seamen's Union still continues on today as a Communist-dominated outfit and has helped Harry Bridges' union 2 months ago in effecting the complete control of the Vancouver and Victoria dockworkers, who have been taken over by Harry Bridges' union; and the same Communist officials who were on the west coast are the same Communist officials who today are in the West Coast Seamen's Union, and they have been following the party line on the question of peace and on various other questions. They have appealed for mercy for the Rosenbergs, and they are all known on the west coast as reliable Communists.

Mr. Scherer: May I interrupt there and ask a question of the witness, Mr. Chairman?

Mr. Walsh, do you believe, from the information you have, that the Communist objective today for the infiltration of the maritime unions is similar to that which it was at the time you were active in the party?

Mr. Walsh: Yes, because Communist Party tactics sometimes change, but the objective is always the same thing—to further the aims of the Soviet Union.

Mr. Scherer: Do you feel the menace is as great as it was at the time you were active?

Mr. Walsh: Well, as long as dockers' and seamen's unions are controlled by Communists, it is my experience and my [fol. 73] opinion, and it is also the opinion of former leaders of the CSU who have resigned, that the menace still exists; and I think that there is a greater menace in the fact that the so-called rank-and-file committees, for example, in New York and Boston, within the International Longshoremen's Association, often follows the Communist Party line and, because of the underground nature of these rank-and-file committees within the rank-and-file union, and within the International Longshoremen's Association it is very hard to pin down their activities and to expose them as clearly as when they are out-and-out Communist-dominated unions who are working aboveground, like in the case of the International Longshoremen and Warehousemen's Union of Harry Bridges or the Marine Cooks and Stewards of Hugh Bryson, who make no bones about their Communist Party activities.

Mr. Scherer: I would like to make an observation, Mr. Chairman, in connection with the testimony of the witness just given: As we all know, there are so many people today who say that we are unduly concerned with the menace of communism because, as they attempt to point out, there are so few Communists; but I think we can draw our own conclusions from the testimony of this witness that if the Communist conspiracy would realize its objective and obtain complete control of the seamen and dockworkers' union, the commerce of the world could be easily sabotaged. In case of war, it is obvious they might control either the success or failure of such a war.

I just want to say that for the record in view of the testimony given.

Mr. Tavenner: Mr. Walsh, it is almost inconceivable that the Canadian Seamen's Union could have been used as you have indicated without the active cooperation of its leaders in this Communist plan.

Mr. Walsh: The Canadian Seamen's Union, since its very foundation, has been known to be a completely Communist-dominated union. In fact, the president and founder of the Canadian Seamen's Union, Mr. J. A. Pat Sullivan, caused one of the biggest sensations in Canada on March 15, 1947, when he resigned from the Canadian Seamen's Union and unmasked the Communist conspiracy and intrigue, not only among the seamen's union but among the Trade and Labor Congress, of which he was the secretary-treasurer. Here is the Montreal Star of that date, where you have Sullivan's picture and the story of the domination, as he puts it, that the Communist Party has taken full control of the Canadian Seamen's Union, and he said it was hopelessly dominated by the Communists. Sullivan admitted he had been a Communist for 20 years and had even been sent over as an official delegate to the foundation meeting of the World Federation of Trade Unions. He admitted at that time that he carried a verbal report of Communist activities from Tim Buck, the Canadian Communist leader, to Harry Pollitt, the British Communist leader.

So, there should be no doubt in the minds of the committee as to the out-and-out Communist nature of the Canadian Seamen's Union.

In my opinion, the Canadian Seamen's Union was the union which was the most strongly tinged, from the Communist viewpoint, union in Canada, and it was often held up as an example in countries on the Continent, like in France, and so on and so forth, where they used to point out with pride that the Canadian Seamen's Union was a very militant union.

[fol. 74] Now, the Canadian spy trials of 1946 and subsequent revelations have brought out that the Canadian Seamen's Union was not only carrying on sabotage plans, but was also a convenient transmission belt for all kinds of Communist couriers going to and from European countries. A John Harkin, another of the founders of the Canadian Seamen's Union, has testified that Sam Carr, who was one

of the leaders of the espionage ring in Canada, was smuggled aboard a CSU ship when he escaped from Canada and went into hiding in the United States.

In my personal experience I have come across, at least a dozen Communists who were engaged in courier work, and that I, myself, worked for the Cominform, from Italy to Tangier, where I was ordered to bring duplicating machines to the Spanish Communist underground. I was ordered to do this by leaders of the Italian Communist Party, and it seems that it was just a natural thing to do—that people should be intrusted with parcels and packages, and what not, to bring from one Communist country to another.

So, in my mind, and in the minds of the committee, there should be no doubt whatsoever as to the out-and-out Communist control of the Canadian Seamen's Union.

Mr. Tavenner: Previous to the sailing of the *Beaverbrae*, was any other activity engaged in by you to help prepare the crew or the ship for this oncoming strike?

Mr. Walsh: Yes. The very important thing is that before the sailing of the *Beaverbrae* 2 trusted Communists by the names of Arland—A-r-l-a-n-d—and Joe McNeil, and, later on, just previous to sailing, another Communist by the name of Bellfontaine—B-e-l-l-f-o-n-t-a-i-n-e—that is the last word, 1 word—Bellfontaine—were placed on board the *Beaverbrae* and 3 non-Communist crew members were taken off.

This is not just hearsay. I have before me a review of the British dock strikes which deals only with the particular aspect of the strike in London, but which mentions this particular case—that the British Government had information at the time that these Communists, prior to the sailing of the *Beaverbrae*, had been specifically put on board these ships so as to strengthen the party apparatus on board the *Beaverbrae*.

Now, in the case of McNeil, I knew him personally. He was a patrolman for the Canadian Seamen's Union in Halifax, and at the last moment we had directions from Harry Gulkin that he should take my place on the *Beaverbrae* and that I—plans had been changed—that I should remain on board the *Mont Rolland* and go to Italy and see that all Canadian ships should be tied up in Italian ports.

Joe McNeil has been arrested a number of times for violence on picket lines and was also involved in penitentiary strikes back in the thirties which were spearheaded by the Communist Party at that time.

Mr. Tavenner: Now, if there is nothing else worthy of special mention regarding the preparation for the sailing of the *Beaverbrae*, will you proceed to advise the committee just how the inception of this strike was maneuvered?

Mr. Walsh: Well, we always had to contend, of course, with the rank and file who were non-Communists and, for the sake of appearances, a mass meeting was held in St. John, New Brunswick, on March 22, 1949, and this meeting was called by Eddie Reid—R-e-i-d—the CSU business [fol. 75] agent of that port and a long-time member of the Communist and the LPP party. The purpose of this meeting was to alert the seamen, all of whom were scheduled to go out on outgoing ships within the next few weeks to the impending strike.

Prior to this meeting, we held a secret meeting, in caucus, where Joe McNeil, Nick Bezoski—N-i-c-k Bezoski, B-e-z-o-s-k-i, Jimmy Stewart—S-t-e-w-a-r-t, George Scordas, already mentioned; Buddy Doucet—D-o-u-c-e-t, Norman Wilson—Wilson, W-i-l-s-o-n, and the previously mentioned Arland and Bellfontaine, so that we could hear the instructions from Harry Gulkin—G-u-l-k-i-n.

Harry G-u-l-k-i-n had been in Montreal at the time and he was sent down to replace Joe McNeil as patrolman and strike leader for the port of Halifax, and Gulkin was carrying the official party word from the party leadership and he told us that the strike was scheduled to start as soon as the *Beaverbrae* left port.

Now, in the course of this meeting—this mass meeting—I was chosen to give the main speech because of the fact that half of the members were French-Canadians and I was the only one who could speak in both languages, and I gave them the usual pep talk and told them that the shipowners had shown bad faith in the negotiations and that the only way that we could solve the present stalemate was to have a showdown with the shipowners, and in typical Communist fashion we steamrollered through a resolution endorsing any action that the leadership of the CSU might take within the next few days.

This was only to make it apparent to the leadership that we were interested in improving working and living conditions and that we were after an increase in salary.

Mr. Tavenner: Well, now, you say the strike order was to be given after the *Beaverbrae* had left port. What was the significance of that decision?

Mr. Walsh: Well, the whole strike hinged on the *Beaverbrae* coming into the Royal docks in London and the crew immediately going out on strike and appealing to the dockworkers not to load or unload this ship because it was on strike. This would immediately paralyze the whole London dock area because it was well known that the British dockers, irrespective of whether they were Communists or non-Communists, had a tradition of union solidarity, and that everything had been arranged—that they would be hoodwinked into believing that this was a bona fide strike involving trade-union principles.

So the strike signal would be also the signal for dockworkers in all the other British ports—Southampton, Liverpool, Leith, Swansea, Cardiff, and the other ports—to also go out on strike and refuse to load and unload Canadian ships on strike, which effectively meant that all other ships coming into port or waiting to come into port would be paralyzed until the strike was ended.

Mr. Tavenner: Would you tell the committee what occurred after the *Beaverbrae* left port?

Mr. Walsh: After the *Beaverbrae* left port, the last-minute preparations were made to assure that we had reliable Communist members on all other ships which were sailing, and then the strike signal was given by Harry Davis, and appeals were also automatically sent out to all the dockers' unions all over the world to pledge their support and their solidarity with the strike of the Canadian seamen.

[fol. 76] Mr. Tavenner: As I understand, you did not sail on the *Beaverbrae* as originally planned. Will you tell us what occurred on the ship, the *Mont Rolland*, of which you were a crew member?

Mr. Walsh: The original plan was that I was supposed to sail on the *Beaverbrae*, but then it was decided that it was very important that we could tie up all the Italian

ports because all the Italian unions were Communist unions, and we wanted to effectively paralyze shipping in Italy, too, because Italy was getting a lot of Marshall plan shipments, and it was important that we should see to it that the ships would all be tied up. So I left on the *Mont Rolland* instead of on the *Beaverbrae*.

Mr. Tavenner: Did you finally arrive in an Italian port?

Mr. Walsh: While on our way to the port of Naples, where we were originally scheduled to sail and to land, the captain got a telegram or a cablegram from the owners of the ship, Dreyfus Bros.—they had a subsidiary company called the Montreal Shipping and these ships belonged to this company. The Dreyfus company ordered the captain to proceed to a non-Italian port, and more precisely to the port of Beirut in Lebanon, where it was known that the Communists had no power or control whatsoever over the dockworkers' union.

This, of course, changed our plans because in this strike we couldn't very well mutiny at sea because we would have left ourselves open to a very serious charge. Not only that, the main question was to tie up the ships so that we would paralyze the ports and a mutiny at sea did not constitute a tying up of a ship. What we wanted to do was to create chaos and havoc in the ports.

So, that was why the *Mont Rolland* did not participate in the strike until it came back to Montreal, and there the old crew walked out on strike and we tied up the ship in Montreal, and I was named the CSU strike chairman.

Mr. Tavenner: Will you proceed to tell us what occurred when the *Beaverbrae* arrived in the port of London?

You were not an eyewitness to that because you were on the other ship, but what occurred in regard to the strike is historically known now; is it not?

Mr. Walsh: Yes; it is history, because the London dock strikes of 1949, which were the direct consequence of the *Beaverbrae* and the *Argomont*, completely paralyzing the port of London—

Mr. Tavenner: Will you spell the name of that second ship?

Mr. Walsh: *Argomont*—A-r-g-o-m-o-n-t.

Mr. Tavenner: Inform the committee just what occurred.

Mr. Walsh: It created quite a crisis, not only in London but in the whole British Empire, because London is a vital seaport and the London docks are supposed to be the greatest docks in the world. Hundreds of ships were tied up and rendered useless when these two ships, the *Beaverbrae* and the *Argomont*, reached their ports and their crews walked out. Immediately, by a prearranged plan, all the dock workers of the port of London refused to work—that is, to load or unload cargoes, not only from these two ships, but from all the other ships in port, which meant that every day there were possibly hundreds of other ships that wanted to come into port and were held off; and this went on for months and months, with the result that hundreds of millions of dollars were lost, shipping schedules were retarded, and that the Marshall plan certainly received a serious blow. [fol. 77] Mr. Tavenner: Now, what other ports of Great Britain were affected in the same way that the port of London was?

Mr. Walsh: Well, nearly all the other ports were affected where Canadian ships were tied up, but principally Southampton, Liverpool, Leith, Swansea, and Cardiff. The dockers there walked out in solidarity with the Canadian Seamen's Union strike, and this also contributed to creating chaos in the shipping industry.

Mr. Tavenner: What occurred on the Continent as a result of this action?

Mr. Walsh: On the continent of Europe where, with the exception of Italy, the shipowners decided to cancel the shipping to Italy; but in France, for example, in various ports like Marseilles, Cherbourg, and Le Havre, the French dockworkers, completely controlled by the General Confederation of Labor, which is a Communist-run organization, immediately went out on strike in support of the Canadian Seamen's Union strike and tied up all these docks, which resulted in all the shipping facilities being paralyzed. In some places the dockworkers even went further and they threw some cargo overboard. Other cargo was watered, as we say in seagoing language, and various attempts were made to sabotage machinery, not only ship machinery, but port machinery.

Mr. Tavenner: What was the result generally upon the

ships which were manned by Canadian Seamen's Union crews in various parts of the world?

Mr. Walsh: The results were very far reaching, insofar as 77 ships were successfully tied up, immobilized. And when I say 77 ships, I wish to stress the fact, something which I forgot, that Fressinet at the Genoa meeting prophesied that 78 ships would be tied up, and this was months before the actual strike took place. So, it just goes to show you with what precautions and with what detailed plans that these top Communist agitators had when they knew beforehand how many ships would be tied up, when even the shipowners could not have guessed whether they would have had 5 or 85 ships tied up.

This showed that Fressinet was sure of the cooperation of the Communist dockworkers' unions from New Zealand to Vancouver and from San Francisco to London.

Now, there were over 200 CSU seamen who were arrested in ports all over the world. There were at least 5 seamen killed, including 2 in San Francisco, and there were also in Halifax and St. John probably 15 or 20 who were wounded as Communists tried to intimidate and tried to brutalize strikers or, rather, nonstrikers, who did not want to participate in the strike.

Now, for example, in Cuba the crews of the Canadian *Victor* and the *Federal Pioneer* mutinied when the captain refused to sail into the port of Habana. There in the port of Habana, Lazaro Pina had arranged for the Cuban dockworkers to go out on strike and to effectively paralyze the Habana dock facilities. When the captain did not want to sail into the port, the crew attempted to intimidate the captain by openly creating mutiny on ship, and it got to such serious proportion that the Cuban Government had to send a gunboat to subdue the mutineers.

On the west coast of the United States, Harry Bridges' longshoremen's union cooperated in Seattle and in San [fol. 78] Francisco entirely with the Canadian Seamen's Union. Crew members of ships who happened to be at that time in Seattle and in San Francisco were fed by Harry Bridges' union and donations were being raised every day by the International Longshoremen's and Warehousemen's Union. It is a historical fact that the Marine Cooks and

Stewards also openly cooperated and donated financial assistance to the Communist-led crews in these two ports.

Mr. Tavenner: Was any cooperation given in this strike by unions on the east coast in the United States, to your knowledge?

Mr. Walsh: To my knowledge, it was a complete fiasco on the east coast because, in the interval, the National Maritime Union had succeeded in cleaning house and getting rid of Ferdinand Smith and the International Longshoremen's Association, which was now known to be a very militant anti-Communist union, refused to support the CSU strike, with the exception of the ILA local in St. John, New Brunswick, which supported the strike for 4 months; but all the other locals of the ILA, including those in Montreal, in Victoria, and in Vancouver refused to support a strike that was so obviously a Communist and a political one and had nothing to do with trade-union principles.

Mr. Kearney: On that point, you mentioned again the name of Ferdinand Smith. He was relieved of his job as secretary, wasn't it, or secretary-treasurer?

Mr. Walsh: Of secretary-treasurer.

Mr. Kearney: Do you know, of your own knowledge, whether or not Smith was later deported by the United States Government on account of his Communist activities while in this country as an alien?

Mr. Walsh: Yes; we often read and, in fact, we made petitions to the American Government not to deport Ferdinand Smith. It was part and parcel of a Communist plan to come to the help of Ferdinand Smith, and to my knowledge I believe I read in the newspapers several times that Ferdinand Smith had been tried, and it was found out that he was a Communist alien, busily engaged in Communist activities, and that he was subsequently deported from the United States.

Mr. Kearney: Was he deported to Jamaica? Was that it?

Mr. Walsh: I believe it was somewhere in the Bahamas. I am not sure of the exact place.

Mr. Tavenner: Mr. Chairman, the files of our committee reflect that Ferdinand Smith was first arrested for deportation on February 16, 1948; that he was rearrested July 6, 1949, when bail was moved up to \$10,000, and then was

released on August 11, 1949, on furnishing \$10,000 bail. However, this \$10,000 bail bond was canceled because it was furnished by the Civil Rights Congress bail fund, and then immigration authorities succeeded in having him deported to London on August 15, 1951, due to the fact that he was a British citizen, born in Jamaica.

Mr. Kearney: Mr. Walsh, going back to this strike, how long did that strike last?

Mr. Walsh: This strike lasted 7 months.

Mr. Kearney: Seven months?

Mr. Walsh: Approximately; probably 6 months 3½ weeks.

Mr. Kearney: It practically tied up the shipping of the world; is that right?

[fol. 79] Mr. Walsh: Well, especially on the European Continent and in the North African ports it succeeded for a time in tying up world shipments.

Mr. Kearney: Also on the west coast of the United States?

Mr. Walsh: And on the west coast of the United States, where there were some Atlantic ships that had sailed to Frisco and to Seattle.

Mr. Kearney: I am very curious to ask you and to find out from you how the strike was settled.

Mr. Walsh: Well, you're going a little ahead of my testimony, but the strike was settled due to the energetic intervention of the Seafarers' International Union, which was also a very anti-Communist union; and when the ship-owners saw that the Canadian Seamen's Union was not acting in good faith and did not care to negotiate, but was carry on this strike which threatened the very existence of the Canadian merchant marine, it called upon the Seafarers' International Union to take over and to man the ships. The Seafarers' International Union succeeded, despite Communist violence and intimidation, in getting Canadian crews to man the strike-bound ships.

Now, this was not done in a day or a week, or in a month. This was done in a period of 6 months, because it was very difficult thing for the Seafarers' International Union to man the strike-bound ships because they had to go through picket lines of strong-arm men, who were sometimes armed

with clubs, and the Canadian Government was so alarmed at the violence which was being displayed by the Communist strong-arm squads that they had to ask the Royal Canadian Mounted Police to step in and to prevent seamen who wanted to sail the ships from being murdered, because there were about 300 people who were injured by these CSU strong-arm men who used to rove around the streets at Halifax, St. John, and Montreal, trying to intimidate the members of this new union. So, finally, when the Seafarers' International Union was able to supply crews, for example, to Australia and New Zealand and South Africa, and to France and Great Britain and other countries, they were able to man the ships and the strike finally petered out because the Canadian Seamen's Union did not have any more contracts. In the meantime there were many of the seamen who had been disgusted with this political strike and rallied to the Seafarers' International Union—and that's how the strike was ended.

Mr. Tavenner: In other words, the use of the Seafarers' International Union to break this strike was a contingency which the Communist Party had not prepared for?

Mr. Walsh: Exactly. That is the one thing that they did not anticipate. At the Genoa meeting or at another meeting in Marseilles, which I will speak about later on, and which was attended by Mr. Goldblatt, of the Longshoremen's Union from San Francisco, at no time was it ever discussed that there was a possibility that another union would be able to intervene and man the strike-bound ships. This was not discussed because the Communists were so confident that their methods of violence would eventually triumph that they did not take that into consideration, because in previous strikes on the Great Lakes the Canadian Seamen's Union had always been able to win the strikes because of the superiority of their gangster tactics, and they thought that they had completely intimidated any other union from even thinking of trying to compete with them.

[fol. 80] Mr. Tavenner: And of course, the other union would have been powerless to intervene if it hadn't been for the government's support which Canada gave in the way of protection to those who were willing to board these ships?

Mr. Walsh: Exactly. The Canadian Government re-

alized this strike was a sabotage attempt, not only against the Merchant Marine of Canada but that it was a strike which had nothing to do with wage increases and that it could not be called a bona fide strike; and so, the Canadian Government was happy at the intervention of another bona fide trade union.

Mr. Tavenner: And had it not been for the patriotic services of the rank and file of this non-Communist union, this strike would have been successful?

Mr. Walsh: Exactly.

Mr. Tavenner: Was any effort made by this same group of Communists who planned this strike at the Genoa meeting to save the strike, to further its purposes, after the strike had gotten under way?

Mr. Walsh: At the Genoa—

Mr. Tavenner: Yes; I mean the same group.

Mr. Walsh: Oh, yes.

Mr. Tavenner: Did the same group meet again and make any further plans to try to save the strike?

Mr. Walsh: Yes. In July 1949 a specially convened meeting was held in Marseilles, France.

Marseilles is the greatest seaport of France, and it was for a time the stronghold of the Communist Party.

And at this stage it is significant that Louis Goldblatt—G-o-l-d-b-l-a-t-t—the right-hand man of Harry Bridges, and the secretary-treasurer of the International Longshoremen's and Warehousemen's Union, attended this meeting, along with Harry Popovich, alias Harry Davis.

Mr. Tavenner: And he was the head of the Canadian Seamen's Union?

Mr. Walsh: And he was the leader of the Canadian Seamen's Union.

Mr. Tavenner: Which was the focal point of this entire strike?

Mr. Walsh: Exactly, because at this stage it was becoming obvious that it was impossible to demand that the British dockers should continue losing their time and risking arrests and so on and so forth, and that something should be done to terminate the London part of the strike before the strike turned against the Communists. So, it was just a question of saving face that they decided to

discuss ways and means of terminating partially this strike, because they were afraid that the London dockers would switch around and that it would defeat their ends and purposes in other parts of the world where the strike was expected and did go on for months and months.

Mr. Tavenner: I want to clarify this. You were not at this meeting yourself at Marseilles?

Mr. Walsh: No. I am referring to official documents which I have in my possession of this union, which I could submit to the committee.

Mr. Tavenner: And also information from the British Government itself, I believe?

Mr. Walsh: Yes; and it is also substantiated by the report of the British Government.

[fol. 81] Mr. Tavenner: Well, I will not ask you to take the time at this moment to search out those documents, but I do want you to present them to the committee before your testimony is completed.

Will you just summarize the situation as you learned it developed?

(Representative Bernard W. Kearney left the hearing room at this point.)

Mr. Walsh: Well, from a study of the documents that I have before me and from my own personal experiences in discussing it with Harry Davis later on, it seems that they came to the conclusion that Harry Popovich, Louis Goldblatt, one Maletta—M-a-l-e-t-t-a, a well-known Italian Communist, and one Blankenzee—B-l-a-n-k-e-n-z-e-e, that this group should fly to London in an effort to make a separate agreement to end the London dock strikes before these strikes turned against the Communists. Goldblatt was not permitted to enter London and was deported by the British Government, but Popovich, being a British subject, could not be prevented and subsequently announced that the strikes of the *Beaverbrae* and the *Argomont* had ended, that a separate agreement was made, but the strikes went on in all the other British ports.

Now, I think I should emphasize here a point which is very important, because it goes to show that the Communists, no matter where they are, that their first allegiance is to the Soviet Union.

When this dock crisis originated in Great Britain, naturally it seriously disturbed the economy of the old country, because the port of London is vitally situated and it is the very pulse of the British Nation.

Now, the British Government happened to have at that time in the cabinet Mr. Ernest Bevin, who was the leader of the dockers' union. Mr. Bevin was known to be very anti-Communist, and he tried all kinds of ways of persuasion and diplomacy to convince the dockworkers that they were taking part in a strike which was no concern of theirs and that they were aiding and abetting the worldwide conspiracy of the Communists to sabotage the Marshall plan.

The dock workers refused to obey an order from the British Government to go back to work. In fact, they refused to obey an order from the British King, His Majesty King George the Sixth, when he ordered them to go back to work; and the people of England and undoubtedly of the world were flabbergasted when Popovich came over from Canada and told the dock workers to go back and they immediately obeyed.

So, this spotlighted the fact that the Communists considered their prime allegiance to a Soviet-controlled organization rather than to their own country.

Mr. Tavenner: Do you know the names of any other persons in attendance at the Marseilles meeting, from your study of the records?

Mr. Walsh: From the study of the records, about, or the same people who attended the Genoa meeting, or much the same, attended the meeting that was held in Marseilles, and about which material is enclosed here in pamphlets which I received from Fressinet entitled, "From Marseilles to Warsaw," copies of which I will submit to the committee. In this pamphlet it deals with the foundation in July 1949 of the Trade Unions International of Seamen, Inland Waterways' Workers, Fishermen and Port Workers of the [fol. 82] World Federation of Trade Unions, and this was to give a legal name to the Maritime Apparatus of the Cominform, because that—

Mr. Tavenner: Let me interrupt you there a moment. That group, you state, was known as the Apparatus?

Mr. Walsh: The M. Apparatus.

Mr. Tavenner: M. Apparat of the Cominform?

Mr. Walsh: That is correct.

Mr. Tavenner: Now, you have already explained the meaning of that, but that included the names of such persons as whom?

Mr. Walsh: Well, as Hoiting and Fressinet, and Vavilkin and Van Den Branden, and Harry Bridges, because Harry Bridges was officially named vice president.

Mr. Tavenner: At this meeting?

Mr. Walsh: At this meeting he was officially elected as vice president.

Mr. Tavenner: Of this organization, in his absence?

Mr. Walsh: Of this organization, in his absence, and he sent a cablegram regretting that he could not attend this meeting.

Mr. Tavenner: Mr. Chairman, I have had an investigation made of the records of our committee which shows that it publicly appeared in the press on June 24, 1949, that while awaiting trial on a Federal charge against him, Harry Bridges applied to the Federal district Judge Michael J. Roche—R-o-c-h-e—at San Francisco for permission to travel to France. This permission was refused because Bridges was then under indictment for perjury and conspiracy in obtaining United States citizenship. In his application Bridges asked permission to take a trip from July 10 to July 29, 1949, so that he could attend a world conference of maritime unions being sponsored by the World Federation of Trade Unions in Marseilles, July 13 and 14, 1949.

That is the meeting to which you have referred by date, I believe?

Mr. Walsh: Well, I haven't got the exact dates, but I have in July 1949, because in their official publication they just mention in July 1949 a trade union international, and so on and so forth. They don't give the specific dates, but they give the month and the year.

Mr. Tavenner: You have stated as a result of that meeting this new organization was formed, which was the successor to this group which had previously operated out of the Cominform; is that correct?

Mr. Walsh: Yes; that is a correct statement, and I gave at the beginning of my testimony the name which they took,

as the Trade Unions International of Seamen, Inland Waterways' Workers, Fishermen and Port Workers.

Mr. Tavenner: Have you examined other publications of that newly formed organization to the extent where you can advise the committee as to what was the place or what was the location decided upon at the headquarters of the organization and who became members of the administrative committee of that organization?

Mr. Walsh: From a study of the documents, copies of which will be submitted to the committee, it becomes crystal clear that the same Communist agitators, or much the same, of those who were in Genoa—and some of them have been known to have been working for the Comintern—that is the official section of the Communist International before it was dissolved and now is known as the Cominform—that these same top Communist agitators, who had been working on the waterfront sections for the Communist Party, in [fol. 83] ports all over the world, are now known publicly to be on the administrative committee of this new union. For example, André Fressinet, whom I have mentioned previously, was appointed or nominated or elected. All of these words are the same in Communist phraseology, because everything is decided in advance; there is no Democratic election. He was named the general-secretary of the new union. For example, our friend, Vassili Vavilkin, of the Soviet Union, in this publication is officially named as the vice president, and Marino De Stefano from Italy was also named vice president; and I will not bore the committee with the other names, but you will have to take my word for it and subsequent research will bear me out on this, that all the delegates and substitutes on this commission and on the control commission are all Communist agitators, known to the police of the free countries of the world as people who have always faithfully carried out the orders they received from the Soviet Union.

And the place is also symbolical of their headquarters. It was decided at the convention the headquarters would be in Gdynia, Poland. That is in an Iron-Curtain country.

Gdynia is spelled G-d-y-n-i-a. It is situated in Poland. It is a Polish port; and is now the headquarters of the Trade Unions International which I previously mentioned.

Mr. Tavenner: Now, this new trade union—so-called trade union—was formed about the fourth month of this strike, was it not?

Mr. Walsh: Exactly, in July 1949.

Mr. Tavenner: Do you know of any activity of that organization as such regarding the continuance or prolongation of the strike in face of the situation with which the strikers were being confronted due to the loyalty of this non-Communist Seafarers' International Union?

Mr. Walsh: The main idea, apart from having a separate settlement of the London strike, was to widen the strike all over the world. In my opinion, if Harry Bridges had been able to attend and if the SIU had not intervened energetically, despite the Communist attempts, the strike would have been widened and been much more disastrous than it actually was; and I think the American Government in refusing to give a passport to Harry Bridges undoubtedly was able to prevent much unrest on the west coast in so doing.

Mr. Tavenner: Mr. Chairman, I believe this is a convenient point for a break.

Mr. Scherer (presiding): The committee will stand in recess for 10 minutes.

(Whereupon, at 2:40 p. m., the hearing was recessed, to reconvene at 2:50 p. m.)

(The hearing reconvened at 2:58 p. m., the following committee members being present: Representatives Bernard W. Kearney (chairman of the subcommittee) and Gordon H. Scherer.)

Mr. Kearney: The committee will be in order.

Mr. Tavenner: Will you give the description of this newly formed organization again? It is a rather long name.

Mr. Walsh: The official name that was decided upon at the Marseilles constituent conference was the Trade Unions International of Seamen, Inland Waterways' Workers, Fishermen and Port Workers.

Mr. Tavenner: Now, did this organization become affiliated with an international union?

[fol. 84] Mr. Walsh: Yes; it immediately affiliated with the World Federation of Trade Unions.

Mr. Tavenner: Was the World Federation of Trade Unions the same organization with which the American Federation of Labor refused to affiliate and the same organization that the CIO left after having remained a member for a very short period of time?

Mr. Walsh: Yes; that is correct.

Mr. Tavenner: What reason was assigned by the American Federation of Labor, if you know, as to why it would not affiliate with the World Federation of Trade Unions?

Mr. Walsh: Well, the American Federation of Labor knew from the very start that the World Federation of Trade Unions was bound to be an out-and-out Communist organization because of the fact that in this new federation of trade unions the Russians would have a numerical superiority and the A. F. of L. knew, for example, that in Russia the trade unions are not bona fide trade unions—that is, trade-union officials in Russia are appointed by the Government and not by their membership; and that one of the basic principles on which trade unionism is founded—the right to strike—is denied to workers in the Soviet Union, and that is why the American Federation of Labor refused to join the World Federation of Trade Unions.

Mr. Tavenner: And they so stated publicly, did they not?

Mr. Walsh: They so stated publicly.

Mr. Tavenner: And it has just been called to my attention that the American Federation of Labor refused to send a delegate to the founding convention for the same reasons?

Mr. Walsh: That's correct.

Mr. Tavenner: What reason was assigned, if you know, by the CIO for leaving the World Federation of Trade Unions?

Mr. Walsh: Well, the CIO learned the hard way, and after a while it became so obvious that the secretariat of the World Federation of Trade Unions was more interested in carrying on the work of the foreign policy of the Soviet Union than in real bona fide trade unionism, so James B. Carey, of the CIO, announced that they were leaving the World Federation of Trade Unions because it was dominated by the Communists and that they were continually trying to implement the Communist Party line instead of looking after honest trade-union principles.

Mr. Tavenner: Do you know of any fact which may have been an inducement or which may have led in any way, directly or indirectly, to the original action of the CIO in becoming affiliated with the World Federation of Trade Unions?

Mr. Walsh: According to Sir Walter Citrine, the first president—

Mr. Tavenner: Now, just a moment. Who was Sir Walter Citrine?

Mr. Walsh: He was the first president of the World Federation of Trade Unions, and he belonged to the British Labor Movement, and they were convinced at the time there was a possibility of cooperating with the Russian trade unionists on a friendly basis. According to Sir Walter Citrine, during the San Francisco conference an attempt was made to obtain the recognition of the World Federation of Trade Unions as a bona fide trade-union body representing organized workers from all parts of the globe and demanding the right to name representatives as consultants to the San Francisco conference, which was the founding body of the United Nations. The recognition was refused. [fol. 85] However, according to Sir Walter Citrine, and I have an article here that is signed by him—

Mr. Tavenner: Well, just a moment. Where did you obtain that article?

Mr. Walsh: I obtained this in Paris, France. It is the first issue. That was only brought out in the French language and it was a very limited circulation and it was often given to top Communist leaders. It is entitled "Le Movement Syndical Mondial," or its English translation, "The World Trade Union Movement."

Mr. Tavenner: Now, what is its date?

Mr. Walsh: Now, it states in that—

Mr. Tavenner: What is the date of that publication?

Mr. Walsh: Oh, the date is 1946—April 1946.

Mr. Tavenner: Will you proceed, please?

Mr. Walsh: In this article, which was the editorial of the first issue of this publication, Sir Walter Citrine mentions, incidentally, that after this refusal of the San Francisco Conference to grant them an official status the World Federation of Trade Unions' headquarters in Paris at the time.

I say at the time because the World Federation of Trade Unions was expelled from France and their offices closed down by the French Government last year because it was proved they were carrying on Soviet activities. At the time the headquarters of the World Federation of Trade Unions received an unsolicited, official notification from the then secretary general of the San Francisco Conference, Mr. Alger Hiss, "that all correspondence that the World Federation of Trade Unions"—and I am quoting here from the French translation—

Mr. Scherer: What did they receive from Hiss, did you say?

Mr. Walsh: They received official notification from the then Secretary General of the San Francisco Conference, Mr. Alger Hiss, "that all correspondence"—I am quoting here from the French translation—"that all correspondence that the World Federation of Trade Unions should decide to make to this Conference on any subject whatsoever could be made in the form of a memorandum that will immediately and officially be distributed to all delegates participating in the San Francisco Conference."

That is the end of the quotation of Mr. Alger Hiss' letter.

Sir Walter Citrine continues—

Mr. Scherer: Wait a minute. Let's get that memorandum. Will you go over that again and repeat what that letter said?

Mr. Walsh: I was referring to the fact that the United Nations had refused recognition to the World Federation of Trade Unions. As Sir Walter states, the recognition was refused.

Mr. Scherer: It was refused by the United Nations?

Mr. Walsh: Yes; it was refused by the United Nations.

Mr. Scherer: On the ground that this was a Communist-inspired or dominated organization?

Mr. Walsh: As I remember, for example, Nationalist China and nearly all the South American countries said that they would leave the United Nations if such a thing occurred, because it was obvious that the World Federation of Trade Unions was a Soviet body, and they didn't want any friction; so, they just refused recognition.

Mr. Scherer: Will you repeat what you said about that letter that Hiss wrote to the Federation?

[fol. 86] Mr. Tavenner: I think I should point out that this was at the San Francisco Conference.

Mr. Walsh (reading):

However—

according to Sir Walter Citrine—

the World Federation of Trade Unions, which had its headquarters in Paris, received and unsolicited, official notification from the then Secretary General of the San Francisco Conference, Mr. Alger Hiss—

his name is marked in print here, in black and white—

that all correspondence that the World Federation of Trade Unions should decide to make to this Conference on any subject whatsoever could be made in the form of a memorandum that will immediately and officially be distributed to all delegates participating in the San Francisco Conference.

End of quotation of Mr. Hiss' letter.

Mr. Scherer: Mr. Counsel, to your knowledge, has the contents of that letter ever been made public before?

Mr. Tavenner: No, sir. I am confident that this is the first public information—certainly the first that has come to the attention of our committee—of this incident.

Mr. Kearney: Do I understand that this was after the conference refused recognition to this federation?

Mr. Walsh: From what I can gather, it seems that the United Nations refused to recognize the World Federation of Trade Unions, and—

Mr. Tavenner: You mean the conference?

Mr. Walsh: The conference.

Mr. Tavenner: Not the United Nations?

Mr. Walsh: I mean this is my opinion—and Mr. Alger Hiss, on his own initiative, then wrote the World Federation of Trade Unions and told them that any memorandum they would want to make that he would immediately and officially see to it that it was distributed to all delegates, and I think since it became an accomplished fact—

Mr. Kearney: In other words, after the conference—

Mr. Walsh: I think you should let me conclude this because it is very important.

Mr. Kearney: Go ahead.

Mr. Walsh: "Since then," said Sir Walter Citrine, "the World Federation of Trade Unions has become an accomplished fact."

Now, without knowing at that time, because there was no question of Hiss being involved in any "Soviet espionage in 1946"—without knowing it at that time, Sir Walter Citrine gives Alger Hiss the credit for the official recognition of the World Federation of Trade Unions, because that is the actual translation.

"Depuis Notre Federation Mondiale devint un fait accompli"—"Since then, the World Federation of Trade Unions has become an accomplished fact."

It is noteworthy that Sir Walter Citrine, leader of the British trade-union movement, subsequently resigned because of the out-and-out control, because of the control exercised by the secretariat of the World Federation of Trade Unions.

Mr. Kearney: What I am getting at, Mr. Walsh: After the conference refused recognition to the federation, according to that letter, the portion you read, Alger Hiss took it upon his own responsibility to notify the federation that [fol. 87] they may send memorandums to him which would be distributed to all the delegates?

Mr. Walsh: Exactly.

Mr. Scherer: Mr. Chairman, I am going to suggest that the staff of our committee pursue this matter further and find out whether that memorandum or letter is actually available, and the circumstances surrounding the issue.

Mr. Walsh: Well, in my opinion, Sir Walter Citrine is a very respectable British gentleman and very anti-Communist. I think he would be willing to cooperate with your committee in determining to what part Hiss acted, officially or unofficially.

Mr. Tavenner: Let me ask you this question, Mr. Walsh: Was it your conclusion or is it set forth in the document itself that recognition had been refused prior to the receipt of this letter from Mr. Alger Hiss?

Mr. Walsh: No; this is marked here in black and in white, what I have read out. It was refused, and after that, he goes on to say—

We received from the Secretary General * * *

Mr. Tavenner: Yes.

Mr. Walsh: So, I mean my conclusion—my personal opinion—is that Alger Hiss either got orders from the Communist apparatus or he either decided on his own initiative that he was going to help the recognized Communist body to obtain official status:

I am going to submit this to the committee so you will have entire opportunity—

Mr. Scherer: Mr. Chairman, I am going to move that particular document be made a part of the record as Walsh Exhibit No. 1.

Mr. Tavenner: And I would like, Mr. Chairman, that the direction contain the privilege of having it photostated and returning the original.

I have discussed that with the witness prior to his appearance.

Mr. Scherer: I will make that a part of my request.

Mr. Kearney: It will be received.

(The document referred to as "Walsh Exhibit No. 1" is as follows:)

WALSH EXHIBIT, No. 1

(LE MOUVEMENT SYNDICAL MONDIAL,

APRIL 1946, P. 4)

(Translation by Mrs. Juliette Joray of the committee staff)

Last year, at the San Francisco Conference, we attempted to obtain real recognition for our international movement. It is true that the World Federation [of Trade Unions] was not officially in existence at that time. But, in our proceedings before the conference in San Francisco, we had the power to make this demand through the channel of the administrative committee of the World Trade Union Conference. The leaders of the San Francisco Conference negotiated with us on this basis; indeed, recognition of the Labor

World was even conceded in San Francisco. While our demand that representatives be designated to sit as consultants at the San Francisco Conference was refused, we received from the Secretary General of that assembly (Mr. Alger Hiss) an official notification that all communications which we desired to present to the Conference on any subject whatsoever could be made in the form of a memorandum which would be officially and immediately distributed to all the delegations taking part in the Conference in San Francisco. Since then, our World Federation [of Trade Unions] is an accomplished fact. We cannot deny its importance as a fully organized institution representing more than 66½ million workers in 56 countries. Inasmuch as we are an active international organization we must affirm our claim to an organic association with the United Nations Organization for Peace and Security.

[fol. 91] Mr. Tavenner: It is a very rare document and one that could not be replaced.

Now, do you know of any unions within the United States which became affiliated with this union which was formed in Marseilles in July 1949?

Mr. Walsh: According to my knowledge, and from a study of documents which I have in my possession, the only American union—that is, the only union from the United States—which became officially affiliated was the Marine Cooks' and Stewards' Union, and the name of Hugh Bryson—B-r-y-s-o-n—has frequently been mentioned as being in continual contact with this international union.

Mr. Tavenner: Will you repeat the name that you just gave us?

Mr. Walsh: The Marine Cooks' and Stewards' Union.

Mr. Tavenner: The name of the individual.

Mr. Walsh: Hugh Bryson.

Mr. Tavenner: Now, it is important for the committee to know and understand the affiliation of these various unions because it is continuously studying those matters; and that is why I have gone into as much detail with you as I have.

Now, this discussion all arose as a result of the meeting in July 1949, at which this new union, which later affiliated

with the World Federation of Trade Unions, was formed.

Now, will you tell the committee, please, when this strike, which you have so graphically described, came to an end and what brought it to an end?

Mr. Walsh: The end of the strike occurred in October 1949 and, as I have explained previously, in my opinion and in the opinion of many of the experts who have studied this strike, it came to an end because the Seafarers' International Union was able to man the strike-bound ships and get the cooperation of the Canadian Government and the Royal Canadian Mounted Police in order to prevent serious harm done to the members of the SIU.

Mr. Tavenner: What did you do after the termination of this strike?

Mr. Walsh: Well, at the termination of this strike I was at sea again. I was on another ship.

I think it is good to mention here that when the Canadian Seamen's Union leadership saw that the strike was doomed to failure they ordered all Communists to get back on board the ships by hook or crook, to infiltrate on the ships, to use other names, to get other identification cards, and to try and win back the seamen and to reorganize the Canadian Seamen's Union.

I received these instructions. I was the CSU strike chairman, and I had in my possession three different identification cards, and I was able to change my name, grow a moustache and get back on board the ship without the SIU or the Royal Canadian Mounted Police knowing about it until the ship was away at sea; and this was done by hundreds of Communists in Halifax, Port Alfred, St. John, Quebec, and in Montreal, and we called it Operation Infiltration.

Mr. Kearney: Were these all forged cards?

Mr. Walsh: Well, they weren't exactly forged, but it was a custom—an old Communist custom—incidentally, for every Communist seaman to have at least three identification cards, and these were obtained by simply going to the shipping master in one port, and getting a passport photo. For example, in my case, I had one with a mustache and without a mustache and with my hair combed on the side, and another one I had glasses on. So, it was easy to arrange with the photographer to get them in different

ways, because we had them in different ports. So, I imagine there were some Communists that operated on board ship that had five different identification cards.

For the purpose of clarification, I will submit to the committee one of these identification cards so they can see how it was quite possible to hoodwink not only the shipowners, but the Royal Canadian Mounted Police.

Now, for example, when I was challenged by an SIU patrolman, who asked me if I was any relation to Pat Walsh, I said, "He's my dirty commie cousin." So, I was able to get on board the ship because he was convinced I was very anti-Communist. So, I boarded the SS *Mont Sandra*—S-a-n-d-r-a—Sandra, and was on board that ship for 4 other months, along with 5 other top Communists. In my opinion, this goes to show that you can never take enough precautions and that you can never have too much screening because we did succeed in taking over the ship for a while and in winning over the crew, but the crews on the other ships were not successful. As we came back to our own ports, the Royal Canadian Mounted Police and the SIU threw us off the ships—first, because we had got on under false pretenses and, second, because the companies had signed a contract with the SIU and not with the Communist agitators.

Mr. Tavenner: So that your work in attempting to infiltrate the new union, which had been used to break the strike, was unsuccessful?

Mr. Walsh: Yes; it was unsuccessful.

Mr. Tavenner: What did you do after that?

Mr. Walsh: Well, I was sent to Toronto where I became an executive member of the Canadian Peace Congress.

I think the committee is aware of the tactics of the Communists. Communists are often nominated and elected to high positions without consulting any membership.

So, within the next 2 months I was elected to the executive of the Canadian Peace Congress, which is the nationwide Communist front for peace activities—and when I say "peace activities," I should say Soviet peace, because in my 3 years of work with the Canadian Peace Congress, an intimate of Dr. James Endicott, it is my firm opinion that whenever any Communists or sympathizers speak about

peace they mean Soviet peace, which we know is just as militaristic as anything that ever existed in history. Soviet peace is exemplified by the invasion of Korea and the taking over of so many countries who are now under the domination of the Communists in Eastern Europe.

I also became a leader of the Canadian Union of Woodworkers. I was the secretary-treasurer, and I was active in many other organizations, such as the Canadian Friends of the Soviet Union, the Quebec Federation of Tenants, the Consumers' League, and many other titles too numerous to mention, but all fronts of the Communist Labor Progressive Party.

Mr. Tavenner: At whose direction did you take part in those Communist-front activities?

[fol. 93] Mr. Walsh: I was also ordered to these new positions by J. B. Salsberg, the Trade Union Commission director of the party. He is the man who decides if one day you're a seaman and the next day you're a tobacco worker, and the next day you're an administrative officer of some other union. He is the one who makes these decisions.

Mr. Tavenner: As head of these various Communist-front organizations, or as an officer of them, did you have occasion to engage in correspondence with persons in similar positions in other countries?

Mr. Walsh: Yes; I was in continual correspondence with the American counterparts. For example, in civil liberties, I was in correspondence with William Patterson of the Civil Rights Congress here in the United States; and as a member of the Canadian Friends of the Soviet Union I was in correspondence with the American-Russian Institute in San Francisco. In this effect I wish to underline the fact that I was one of the few trade unionists who was chosen by the American-Russian Institute to have their names and their message in a so-called friendship book, which was to be issued last month. So, I don't want the committee to be surprised if they happen to get a copy of this book and see my name and my message of solidarity to the Soviet Union, because this was sent last year when I was still active.

I have a letter here in my possession from Rose Isaak asking me to send a photograph so that she could include this photograph in this friendship stunt.

Mr. Scherer: Who is Rose?

Mr. Walsh: She's the secretary of the American-Russian Institute in San Francisco. It is a front for the Soviet Government in San Francisco.

Mr. Scherer: Is she a member of the Communist Party?

Mr. Walsh: She is known to everyone in Canada who has been to San Francisco as an oldtime member of the Communist Party.

Mr. Tavenner: Do you know whether the American-Russian Institute, of which you spoke, is the successor in the United States to the Friends of the Soviet Union?

Mr. Walsh: Yes; I believe I have some paper which bears out that fact and, moreover, I have been getting and receiving pamphlets about the Soviet Union, copies of which could be submitted to this committee, as well as various correspondence dealing with Soviet publications.

Mr. Tavenner: Now, the committee has heard a great deal of evidence from time to time about the operation of these various front organizations in this country and how they have carried the Communist Party line and followed the dictates of the Communist Party. I would like to know from you, if you are in a position to state it from your own knowledge, as to whether the activities of organizations of this type are coordinated from one country to another, whether they get the same directives from top sources.

Mr. Walsh: It has always been my experience, in the 18 years of experience I've had with Communist groups, that there is very tightly knit coordination, not only between, for example, American and Canadian Communists, but between Soviet Embassy personnel and the Communist Party apparatus.

That has been proven conclusively in the Canadian spy trials, where Sam Carr, the national organizational secretary of the party, and Fred Rose, the Communist member of the Parliament, were both caught redhanded in the act of meeting Soviet Embassy personnel, and this was borne out in the testimony of Igor Gouzenko, G-o-u-z-e-n-k-o—the cipher clerk of the Soviet Embassy, who so sensationally ran away with files and copies of letters which definitely proved that Canadian Communists were actively supplying information to personnel of the Soviet Embassy.

Both Carr and Rose were found guilty and had every advantage of trial, but the overwhelming weight of evidence was too much against them, and they were both tried, convicted, and sentenced.

Mr. Tavenner: Now, let me ask you a question which I wish you would answer either "Yes" or "No" before making any further statement: Did you have any personal knowledge of any facts relating to the offense for which Fred Rose was tried and convicted?

Mr. Walsh: No.

Mr. Scherer: Can I interrupt just a minute?

Did you testify at the very opening of the hearing this morning that it was Fred Rose who was your instructor in Marxism?

Mr. Walsh: That's correct.

Mr. Scherer: How old were you at that time, Mr. Walsh?

Mr. Walsh: I was about 19. In 1935 I was 19.

Mr. Scherer: Where did he instruct you in Marxism?

Mr. Walsh: In Montreal.

Mr. Scherer: How old was Rose at that time?

Mr. Walsh: Oh, he must have been about 30.

Mr. Scherer: And you were about how old?

Mr. Walsh: I was 19.

Mr. Scherer: Did Fred Rose have any influence on your acceptance of the Communist program and your later subversive activities to which you have testified?

Mr. Walsh: Yes; he was the one who was mainly responsible for having me engage in party activities.

Mr. Scherer: It is possible, then, for professors to have influence on students if they were Communists and sought to try to teach the Communist Party line, isn't it?

Mr. Walsh: I think it's not only possible; I think it is a fact. I think it is a well-known fact that students can be influenced in political ideological ways by their professors.

In Canada we have the case of Gui Caron, which I mentioned previously. Caron went to Sir George William College. He had no reason at all for having Communist ideas. He came from a very wealthy family, and he fell under the influence of Prof. Stanley B. Ryerson, and Ryerson used to come to Quebec quite often and tell me, "I have a prize pupil and he's going to be somebody some day."

And I told him—I said, “Well, with his background, I think you’re going to have a hard time making a Communist out of him.”

Well, today, Gui Caron travels to and from Moscow frequently and is the Province leader of the Communist Party and one of the top leaders in the Labor Progressive Party in Quebec.

Mr. Scherer: Such a professor over the years would have an opportunity to influence adversely many young people toward the Communist Party program?

Mr. Walsh: Well, especially if you get them young, like at my age, when I was 18 or 19. I was unemployed and I [fol. 95] thought that, rightly or wrongly, the Communists were interested in finding a solution to the economic problems of that time.

Mr. Scherer: Such a professor would have the opportunity to influence them to the extent even that you were influenced, to engage in subversive activities against the Government?

Mr. Walsh: Exactly; but, of course, they go about it in a very psychological way. They don’t speak to you about bloody revolution and treason, and things like that. They keep that in the background.

Mr. Scherer: It is a gradual process.

Mr. Walsh: They begin by A, B, C; before you find out, you are in X, Y, Z.

Mr. Scherer: Your testimony has been confirmed by many expert witnesses since I have been on this committee, since January. There is no question about what you say in my mind because it has been confirmed many times.

Mr. Tavenner: You have told us you became a member of the Young Communist League in 1935 and you went on into the work of the Communist Party.

Mr. Scherer: Let me interrupt again, Mr. Counsel.

Mr. Tavenner: Yes, sir.

Mr. Scherer: I am sorry, but just for the record at this point, before we get too far away from it, Fred Rose has since been convicted, I believe you testified earlier.

Mr. Walsh: He was convicted and sentenced and has finished his jail sentence.

Mr. Scherer: For what?

Mr. Walsh: For espionage.

Mr. Scherer: That is all. I thought it was important to get it in the record.

Mr. Tavenner: You have not said anything about your being a card-carrying member of the Communist Party. Were you a card-carrying member of the Communist Party at any time?

Mr. Walsh: No; at no time did I ever have a card of either the Communist Party or the Labor Progressive Party.

Mr. Tavenner: Why was that?

Mr. Walsh: Well, for various reasons. I think the two main reasons were because I was always entrusted with assignments which were pretty dangerous, and that it's a policy of the Communists whenever somebody has an assignment which is tricky and there's liable to be police intervention in one way or another that we shouldn't be burdened or handicapped with a party card.

The more specific reason in Quebec Province, where I worked and operated, was because of the existence from 1940 of a law which is known as the padlock law, and this padlock law permits police officials to swoop down on Communist Party headquarters any time at all and seize the membership list, and so on and so forth.

So, in Quebec Province it has been very, very hard to carry on Communist propaganda because of this padlock law and, consequently, it was decided that all top Communists who were working in the trade unions, for example, the leaders of the United Electrical, Radio and Machine Workers, the leaders of the International Fur and Leather Workers, the leaders of the International Union of Mine, Mill, and Smelter Workers, all of whom are old-time Communists, have never had party cards.

[fol. 96] Mr. Tavenner: Well, I was very anxious for that point to be made clear—the fact that a card was or was not issued is not the controlling factor in determining a party's membership.

Mr. Walsh: No, because it has been proven that many so-called fellow travelers who claim they are only fellow travelers are, in reality, old-time Communists who have the special privilege of being exempted from carrying

party cards. Of course, today there is no question of a party card because in Canada and the United States no party cards have been issued since 1950, because of the underground nature of the Communist Party both in Canada and in the United States in opposing the Korean war.

Mr. Tavenner: Did you pay dues during any period while you were active in the movement?

Mr. Walsh: Oh, yes; I always paid dues, as well as various assessments and percentages of my salary, which varied according to the work I did.

That is something that the Communist Party never forgets—seeing to it that we kick in as much as possible.

Mr. Kearney: Mr. Counsel, I would like to interrupt there.

I am very interested to hear that statement made by you, Mr. Walsh, for the simple reason that we have had various witnesses before the committee who have testified that their dues were nominal—for instance, a quarter a month—but they said what they were interested in was the assessment.

I remember one director from Hollywood who said that he was contributing 5 percent of his salary each month to the Communist Party, and he was asked how much money he was making a month. He said, "\$5,000."

So, if that went on all over the world—and you have just stated it went on in Canada—they must have had certainly a financial war chest.

Mr. Scherer: Isn't that the director, Robert Rossen, Mr. Chairman, who testified he paid \$40,000 to the party over a period of 10 years?

Mr. Tavenner: That is correct.

Mr. Walsh: I know people in Quebec City who have been paying 10 percent of their salaries for the last 15 years.

Mr. Tavenner: What was that money used for, in a general way?

Mr. Walsh: Well, to promote Communist Party activities, as all fund-raising by the party is used. It's used primarily for agitation and propaganda purposes.

Mr. Tavenner: Mr. Walsh, we have discovered in some

instances that persons who were actually devoting the majority of their time to organizing for the Communist Party had jobs of a responsible nature in certain unions; they were apparently being paid nothing by the Communist Party, but were receiving very substantial salaries from the union. What comment do you have to make about that, as being a practice in the Communist Party?

Mr. Walsh: Well, the reason for that should be quite obvious. When the Communist Party pays money to a functionary, it is paying it out of its own party funds, whereas when the Communist organizer of the Fur and Leather Workers' Union, for example, gets a salary of \$125 a week he is getting that salary from money which comes from the union's funds—and in many cases the [fol. 97] union is composed of a majority of anti-Communist members, like in the case of the United Electrical Workers, where the great majority of the membership are anti-Communist. These people are paying huge salaries to UE organizers, who are all Communists, which means that the Communist Party is always interested in union organizers getting big salaries, because after that the result is very interesting, because they can then clamp down.

Mr. Tavenner: If the Communists can get their own members in positions of leadership in a union, it is one way of paying their salaries?

Mr. Walsh: Yes, and at the same time it demonstrates that the anti-Communist members of these unions are really paying for Communist Party activities, whether they know it or not.

Mr. Tavenner: Do you have with you a copy of the so-called padlock law that you referred to?

Mr. Walsh: Yes; I have a copy of the padlock law and I will submit it to the committee.

Mr. Tavenner: The committee discovered in February of 1953, through the public press, that you had announced your resignation from a number of Communist organizations. Was that the time that you severed your participation in the Communist movement?

Mr. Walsh: Yes. When I resigned, I resigned from all

Communist organizations, and I named specifically at least 9 or 10 organizations where I held executive positions.

Mr. Tavenner: And this occurred as late as February of 1953?

Mr. Walsh: To be very exact, because it's been one of the greatest days in my life, it was on February the 27th, 1953.

Mr. Tavenner: The committee is interested to know what motivated you in taking that action.

Mr. Walsh: Well, there were many factors which motivated me, but the really deciding factor was the question of the Rosenbergs.

Mr. Kearney: What do you mean by the "question of the Rosenbergs?"

Mr. Walsh: Well, I was in the Canadian Union of Woodworkers, and I received instructions from Ilio Bosi of the World Federation of Trade Unions—

Mr. Tavenner: Spell it, please.

Mr. Walsh: Bosi—B-o-s-i.

Mr. Tavenner: And the first name also.

Mr. Walsh: His first name, Ilio—I-l-i-o.

Bosi was my boss in this section to which I belonged and to which I had been transferred.

The World Federation of Trade Unions has different sections. As you have noticed, I spoke this afternoon and this morning on the seamen and dockers' section, and later I was transferred to the agricultural and forestry workers' section, and as such I was directly under the orders of Ilio Bosi.

Now, I am mentioning Bosi's name because it will come out sooner or later that he was the main Communist responsible for the triumph of the popular front in Guatemala in 1950. Bosi made a secret trip by plane to Cuba, and from there he went to Mexico, and from Mexico he went to Guatemala, where he succeeded in creating, through Communist organizations, the basis of what is known today as the Arbenz Popular Front Government; and this Bosi is an oldtime agent of both the Comintern, which was dissolved, and the present-day Cominform, which is the international Communist organization.

Mr. Scherer. Where does he live?

Mr. Walsh: He lives in Rome, Italy, but he is often in Moscow. He travels about quite frequently.

Now, I have evidence to substantiate that, and I am going to submit to your committee letters from Bosi and also a report on his trip to Guatemala in 1950, as I referred to it.

Bosi sent me this letter, knowing that I was an oldtime and trusted Communist, and in this letter he requested that our union, the Canadian Union of Woodworkers—that we should pass a resolution, and send him a copy, in favor of clemency for the Rosenbergs.

Now, I think I will have to go back to explain, because of my status in the civil liberties' front organization, what I know about the Rosenberg case as it relates to Canada.

In 1951 I was on the executive board of the League for Democratic Rights, more commonly known in Canada as the LDR, and which is the counterpart of the Civil Rights Congress which you have in the United States and which is the Communist front in the civil liberties group. It is called the Civil Rights Congress, and I have been getting the material and letters from Patterson; and so on and so forth, for the past 3 years, copies of which also will be submitted to the committee.

Now, in 1951 we held a meeting—it was in the latter part of 1951—and this question of the Rosenbergs came up whether we as Canadian Communists, should not take up the clamor for clemency; and William Cashton, C-a-s-h-t-o-n—who was formerly the leader of the Communist League and is now an official of the Labor Progressive Party—he told us that the Communist Party in Canada, the LPP, was going to keep its hands off the Rosenberg affair because of the similarity of the names of Julius Rosenberg and Fred Rose, whose real name, incidentally, is Fred Rosenberg.

Now, after the Canadian spy trials of 1946, the Canadian Communists were dealt a severe blow when it was revealed publicly that so many prominent Communists, including a member of Parliament, had been openly engaged in espionage against the Canadian Government, and there are many people who broke away from the party at that time because they did not want to go that far.

They did not consider that treason was the accepted Communist Party doctrine, and that is why the Fred Rose case has been a very touchy one. Cashton explained to us in Toronto that we should just forget all about the Rosenberg affair.

Now, sometime last year apparently—I haven't got the actual proof, but apparently—the worldwide campaign for clemency for the Rosenbergs, which was being sponsored, directed, and supported by Soviet agents all over the globe—and I have newspapers and publications and pamphlets from nearly every country where the Communist Party has an organization, and it is no coincidence that all these appeals follow along the same pattern—it was decided that Canada should not be an exception and that we should join the hue and cry of the Rosenberg clemency campaign.

Now, the way the League for Democratic Rights went about this is an illustration of communistic tactics. They sent word to Regina in Saskatchewan—that is in western Canada—to a Communist there that he should write in and suggest that people in the west were bothered about this [fol. 99] Rosenberg affair and that, in his opinion, we should start a campaign in favor of the Rosenbergs.

Mr. Tavenner: Was he a person of any known record in the Communist Party?

Mr. Walsh: Well, he was a member of Parliament—a Communist member of Parliament—and his name is William Kardash—K-a-r-d-a-s-h—a well-known leader of the Ukrainian Communist section of the party for the past 20 years, and also a leader of the International Brigade in Spain between 1936 and 1939.

So, Kardash wrote to the League for Democratic Rights, and we had the excuse that it was not something that was coming from the central body; it was not a campaign that was being imposed because of the decision of the leadership, but that people from the west were anxious that we should do something about it, and in about 2 weeks we began to flood the country with save-the-Rosenbergs pamphlets, petitions, circulars, and what not.

Now, I knew, from a study of the Rosenbergs' case, that, in my opinion, both Rosenbergs were guilty and I was not

surprised that such people had been carrying on espionage activities; because of my long experience with the Communist Party, and in my heart and soul I knew that they had had every possible chance for defending themselves and that they could thank God they were living in America where they had the right to have a lawyer and to defend themselves and to enjoy the benefits of counsel, something which is denied to every citizen in the Soviet Union and every other country behind the Iron Curtain. They certainly had more chance than Comrade Beria is going to get, and in my heart and soul I could not endorse or have anything to do with something which smacked of treason.

So, at a meeting of the Canadian Union of Woodworkers' Executive I publicly—this was on December the 15th, 1952—I opposed the resolution by the president, Gerard Fortain—I will spell that—Gerard Fortain—G-e-r-a-r-d, Gerard; and Fortain—F-o-r-t-a-i-n—who was a well-known Communist leader in Canada—I opposed his resolution that in the name of 100,000 bush workers, which incidentally we did not represent because at the very most we only had 5,000 members—that in the name of 100,000 French-Canadian bush workers we were going to request President Eisenhower to grant clemency to the Rosenbergs.

Well, I opposed the motion and I made a vigorous statement, which even rallied some of the Communists, and the motion was voted down; but I knew from that day on that my days were counted—that if I didn't move fast, they would.

So, I prepared everything, and I got as many documents and letters as possible, and I timed my resignation so that it would have the most effect against Communist Party plans in Canada.

That was one of the factors—the question of the Rosenbergs. It was what we would call the straw that broke the camel's back, but the main reason was because Bruce Magnuson—I will spell that—B-r-u-c-e, Bruce; and Magnuson—M-a-g-n-u-s-o-n—who was the leader of the Canadian Union of Woodworkers, and a Communist of old-time standing, having been in the Communist Party for at least 20 years, a man who was interned by the Canadian Government for subversive activities in 1940. He went to

[fol. 100] Russia in 1951 and on his return gave us instructions—and when I say “us,” I mean the Communists who were working in the Canadian Union of Woodworkers—there were about 40 of us old-time, hard-core Communists. He gave us directions and instructions that in the event of a war with the Soviet Union we were to sabotage and blow up hydroelectric plants that were situated not very far away from lumber camps, and to that effect, that he would give the signal, all of our trusted Communists within this woodworkers’ union would be sent to camps adjacent to hydroelectric plants.

Now, this message was given to us by Marc Leclerc.

I will spell that—M-a-r-c, Marc; second name, Leclerc—L-e-c-l-e-r-c—the former president of the Lumber and Sawmill Workers’ Union, expelled by the A. F. of L. in 1951 for Communist activities, also interned by the Canadian Government in 1939 because of subversive activities, and Leclerc’s instructions were verbally told to Gerard Fortain, whom I have mentioned previously, and to myself in Montréal.

Leclerc had been an organizer of the bush workers’ union for the past 10 years and was very influential among the French-Canadian section of the Communist Party.

Now, I wish to point out that practically all the leaders of this Canadian Union of Woodworkers, with the exception of Magnuson and Leclerc, were all former top CSU leaders. Gerard Fortain was the business agent in Montréal; I was the CSU strike chairman; and seven of our organizers were either patrolmen or top officials of the Canadian Seamen’s Union. That is to say that the Communists knew that sabotage was nothing new to us, that we had been overseas, and that we had participated in the CSU strike, and that also on the west coast many of these organizers had sabotaged war material being sent to the Chiang Kai-shek Government, so that we should have no compunction, in their estimates, of carrying on the mere firing of forests and the blowing up of hydroelectric plants in the event of war with the Soviet Union. That was something to be expected of us.

Mr. Scherer: Mr. Witness, may I interrupt?

When was the date of these instructions to blow up these hydroelectric plants?

Mr. Walsh: These instructions were given to us by Marc Leclerc in September of 1952.

Mr. Scherer: That late?

Mr. Walsh: Yes. That was previous to the meeting which was held.

Now, I wish to state at this point that Marc Leclerc was an old-time infiltrator in the shipyards. Now, he left Bruce Magnuson and he went to work in the shipyards at Port Arthur to try and form Communist cells there. He was there for some time and he arrived in Montreal very secretly—nobody knew about it—to take over the shipyards at Vickers, which were controlled by an anti-Communist union. He changed his name, and he altered his appearance somewhat—to what extent I don't know, but he went to work in the shipyards at Vickers and began to create a Communist cell, which again was formed by old-time Communists who had been in the CST. For example, I can name two of them—Scotty MacDonald and Torchy Torchniuk. Torchniuk is spelled—T-o-r-c-h-n-i-u-k. [fol. 101] Mr. Scherer: Were any of these hydroelectric plants on or near the international boundary between Canada and the United States?

Mr. Walsh: No; in this particular respect these hydroelectric plants were concentrated in the Shipshaw area, which I have mentioned previously this morning, in the Lake St. John district.

I wish to point out if these plants were sabotaged it would deal a crippling blow to the aluminum production because the huge majority of the aluminum is made in Arvida, in Canada, and if these plants were to blow up or be sabotaged seriously that it would deal a crippling blow to the aluminum output of the world.

Mr. Scherer: In which section were the forest fires to be started?

Mr. Walsh: The forest fires were to be started in every place where we had Communist Party members who were reliable.

Mr. Scherer: Would any of those locations be near the international boundary?

Mr. Walsh: Yes; for example, in Maine, on both sides of the border, where we always had trusted Communist organizers, one of them who has been coming in and out of the States in the last 4 or 5 years, and his name I will submit publicly. His name is Oscar Valcourt—

Mr. Tavenner: Spell it.

Mr. Walsh: I will spell that. Oscar—O-s-c-a-r; and Valcourt—V-a-l-c-o-u-r-t.

Mr. Tavenner: What were the circumstances under which you knew him as a member of the Communist Party?

Mr. Walsh: Well, he was arrested as a Communist Party member in 1939. He was also arrested on various other occasions arising out of Communist-led strikes, and I've met him frequently at Communist Party meetings where I participated.

Mr. Scherer: These people you have been identifying recently in your testimony are all Canadians, are they not?

Mr. Walsh: They're all Canadians and they are well known to the police as Communists of old standing.

Mr. Scherer: Are there any Americans that you know who acted in a capacity similar to these men that you have been testifying about?

Mr. Walsh: Well, I never worked in the United States for the Communist Party because, as you can see by my—

Mr. Scherer: I understand that. I just wanted to know if by chance you knew of any.

Mr. Walsh: I have no positive proof.

Mr. Tavenner: Now, the two experiences which you have told us about—the proposed sabotage and the directions in regard to the Rosenberg case—were the reasons of your breaking from the party.

Now, prior to the time you broke with the party, had you cooperated with anti-Communist groups?

I am not asking you to state in what manner, but merely whether or not you had, for a period of time, cooperated with anti-Communist groups while you were still in the Communist movement?

Mr. Walsh: Yes; for a number of years—I should have stated this at the start of my testimony, but the questions were about the great strike—the CSU strike—for a number

of years I have had no illusions on what communism is. I was lead to believe that it was something which I found out subsequently was very contrary to the idealism that I had attached to the idea; and when I woke up, so to speak, and when I finally realized to what extent that such [fol. 102] things as treason and sabotage and murder and assassination were part and parcel of the Communist doctrine and practice, I decided to break away from the Communists; but I met some people who were undercover agents within the Communist Party and who convinced me that I should continue in order to gather as much information as possible, so that I would be able to testify later on as to the extent and to the seriousness of the menace of communism which, unfortunately, the people in Canada at that time did not take very seriously, and I was able to cooperate with various anti-Communist groups in giving them advance information and to put the brakes on many violent outbreaks and to even prevent scuttling of a ship. The *Mont Rolland* was scheduled to be scuttled and I prevented the scuttling of that ship.

Mr. Tavenner: I will only ask the witness if you saved the scuttling of the ship with the risk of divulging the fact that you were at least lukewarm in the Communist movement.

Mr. Walsh: Yes; I took a very great risk. In fact, I took the risk of being murdered by Communists; but, on the other hand, the ship was not scuttled.

Mr. Kearney: Well, I think that is the perfect answer, Mr. Walsh. The main thing is that the ship was not scuttled.

I suggest counsel defer any further questions on that.

Mr. Tavenner: I am interested to know one other thing. You have told us, as a result of the international conspiracy which brought about the worldwide ship strike, that the shipowners lost many millions of dollars, that the Marshall plan was retarded, that a great many people suffered because of it in the economy of Great Britain and other places. I am interested to know what happened to the rank-and-file members of the Canadian Seamen's Union who participated in that strike and who were induced to

become members of it, though not members of the Communist Party.

Mr. Walsh: Well, I think that is the tragic part in the strike, that these Canadian seamen, who were loyal to Canada, the majority of them who had no Communist ideas whatsoever, by following the leadership of the Canadian Seamen's Union in this strike and by being active participants in the strike, were blacklisted for life because of their actions. This meant that a union which had 10,000 members that were sailing either on the Great Lakes or on the Atlantic Ocean or on the St. Lawrence River, jeopardized the livelihood of all of these men by carrying on something which was so obviously doomed to failure; but in my experiences in the Communist movement I have often noticed the utter and callous disregard of the Communist leaders toward the rank and file. I have noticed that not only in Canada, but in European countries.

For example, in France during the great coal strike of 1948 there were some French miners there who were killed; others were wounded and others were blacklisted for life just because the Communist Party wanted to carry on a political strike which had nothing to do with the wages or increased living conditions, or any other trade-union principles. The Communist leadership had this strike and the membership was hoodwinked into believing that it was a bona fide trade union fight and that they had to put up with hardships, and it is not only a question of the people involved; it is a question of the womenfolk and the children. In the CSU strike it was not only the question of the [fol. 103] Canadian seamen; it was a question of the dockers of London and the dockers of San Francisco and Seattle, and dockers all over the world, who lost millions and millions of dollars in salary for something which was no concern of theirs whatsoever, which had nothing to do with trade-union principles, and these dockers, in losing that amount of money, of course, contributed to the hardship of their womenfolk and to their children.

And, so, I think the tragic thing in political strikes that are led by Communists is the fact that it is the innocent people who suffer, because no matter what the outcome of

these strikes, the Communist leaders are always transferred to other jobs.

Now I, myself, for example, had I been utterly cruel and callous, I would have just sneered and said, "Well, I don't have to worry; I'm sure of getting another job," which I did and which all the other leaders did. I give you a few examples: Harry Davis was transferred to the Fur and Leather Workers' Union; Bob Nuttal was transferred to the International Union of Mine, Mill, and Smelter Workers; George Thibault was transferred to the Brotherhood of Canadian Seamen; Gerard Fortain was transferred to the Canadian Union of Woodworkers; Real Couillard was transferred to the Canadian Union of Woodworkers. I could go on and name you 50 or 60 other chaps, including Harry Gulkin, from one day to the other just were transferred from one job to another.

So that means the Communist leaders never have to face hardships. It's just the poor dupes who have blindly followed their instructions who are the ones who have to suffer the consequences of these political strikes and attempts at sabotage.

Does that answer your question, Mr. Tavenner?

Mr. Tavenner: Yes; it does, very fully, and satisfactorily.

The question was raised as to whether or not you gave the spelling of Sir Walter Citrine. Will you give it to us now to be certain that we have it?

Mr. Walsh: Well, you have the document itself, and it's under the heading of Sir Walter Citrine—C-i-t-r-i-n-e.

Mr. Tavenner: Would you agree, Mr. Walsh, that your experience in this tremendous conspiracy has been such as to indicate that no members of the Communist Party, in your judgment, should be permitted to occupy positions of leadership in any key organizations any place in the free world?

Mr. Walsh: I think it should be very elementary and it should be very obvious to anyone who has made a serious study of not only communism but of the methods of the Communists, that when Communist leaders or Communist organizers are allowed to control or to have a key position in any industry, that they are not only jeopardizing the

future of that industry but, by carrying out blindly and obediently every dictate of their Moscow overlords, they are threatening the security of their own country.

Mr. Tavenner: I have no further questions, Mr. Chairman.

Mr. Scherer: Mr. Walsh, you have ably outlined the pattern and program of the Communist infiltration into certain Canadian labor unions. Would you say, from your experience, your knowledge of the Communist conspiracy, that that same or similar program of infiltration was followed by the Communist Party in the labor unions of all non-Communist countries, including the United States?

[fol. 104] Mr. Walsh: Yes; it is obvious that the same pattern is being followed everywhere; and I think in the United States that it is even more accentuated, in the sense that the party here has gone or is going underground, and that it is continually being harassed undoubtedly by the Soviet Union to even greater efforts, because whenever the party appears to be weak it is there you have to be the most vigilant, because they are working day and night. There is something that we must admit, in all honesty, is that the Communist Party organizers really devote a lot of time and energy to undermining the free institutions of the world.

Mr. Scherer: Well, would you say, then, that hearings such as this committee is conducting, which exposes the nature and method of this infiltration into labor unions, would be a valuable thing to enlightening the great mass of workers who are anti-Communists, so that they could recognize these methods and this program when they happen to come in contact with them in the shop, would you not, Mr. Walsh?

Mr. Walsh: Yes; I think it is very important to spotlight not only these activities, but all activities of the Communists, to prove the duplicity of the Communists and their two-faced methods, because no worker who really experiences communism can now swallow the lies and deceits of the Communists.

Mr. Scherer: Actually, isn't an exposure such as we are having here today perhaps the greatest weapon to defeat the Communist conspiracy in the cold war?

Mr. Walsh: Yes; I think that what I have said today will certainly help, first of all, people who are apathetic to realize the seriousness of the Communist menace and at the same time it will alert people to the reality of the potential threat of communism—not only in Europe, but in all parts of the globe.

Mr. Scherer: And it isn't always numbers that count; it is organization?

Mr. Walsh: Oh, yes; definitely. There's an old saying which Communists continually trot out—and that is that 3 determined men in a plant can do more work from a sabotage viewpoint than 3,000 men who don't know what to do, or something similar. It is a French saying, which I am badly translating, but it goes to prove that people who are determined to do something and who receive instructions and blindly obey party orders can be counted upon to do anything.

Mr. Kearney: Well, Mr. Walsh, as chairman of this subcommittee, I want to say to you that I think, from this most revealing testimony that you have given here today, that you have given something to the people of our country. I mean my own country. You, as a Canadian citizen, to come here and give it to us voluntarily shows the universal or, shall we say, the global menace of this Communist octopus that has got its tentacles all over the world.

I want to say to you that, in my humble opinion, you have rendered a great public service to the people of our country, and I want to express my thanks and the thanks of the committee for your coming here.

Mr. Walsh: I thank you.

Mr. Kearney: The committee will stand in recess until 10:30 tomorrow morning.

(Whereupon, at 4:20 p. m., the hearing was recessed, to reconvene at 10:30 a. m., Tuesday, July 14, 1953.)

[fol. 105]

INVESTIGATION OF COMMUNIST ACTIVITIES IN THE ALBANY, N. Y., AREA—Part 1

TUESDAY, JULY 14, 1953

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON UN-AMERICAN
ACTIVITIES,

Albany, New York.

PUBLIC HEARING

The subcommittee of the Committee on Un-American Activities met, pursuant to recess, at 1:35 a. m., in courtroom No. 1 of the Federal Building, Albany, N. Y., Hon. Bernard W. Kearney (chairman of the subcommittee) presiding.

Committee members present: Representatives Bernard W. Kearney (chairman of the subcommittee) and Gordon H. Scherer.

Staff members present: Frank S. Tavenner, Jr., counsel; Thomas W. Beale, Sr., chief clerk; James A. Andrews and Earl L. Fuoss, investigators; and Mrs. Rosella Purdy, secretary to counsel.

Mr. Kearney: The committee will be in order.

Mr. Counsel, have you your first witness ready?

Mr. Tavenner: I would like to call Mr. Nicholas Campas.

Will you come forward, please?

Mr. Kearney: Mr. Campas, will you stand and raise your right hand?

Do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Campas: I do.

Mr. Tavenner: Will you state your full name, please, sir?

Mr. Jones: May I interrupt just a moment, Mr. Chairman?

I understand, from your counsel, that the witness has the right to refuse a broadcast of his testimony.

Mr. Kearney: Under the rules of the committee: yes.

Mr. Jones: We so request.

Mr. Kearney: And the broadcasting will be discontinued upon the request of the witness.

TESTIMONY OF NICHOLAS CAMPAS, ACCOMPANIED BY HIS
COUNSEL, ABBOTT H. JONES, JR.

Mr. Tavenner: Will you state your full name, please, sir?

Mr. Campas: Nicholas Campas.

Mr. Tavenner: Are you accompanied by counsel, Mr. Campas?

Mr. Campas: Yes, sir.

Mr. Tavenner: Will counsel please state his name and address for the benefit of the record?

[fol. 106] Mr. Jones: Mr. Counsel, my name is Abbott H. Jones, Jr., with offices for the practice of my profession at 5 Broadway, Troy, N. Y.

Mr. Tavenner: When and where were you born, Mr. Campas?

Mr. Campas: November 29, 1916, Baltimore, Md.

Mr. Tavenner: What is your present occupation?

Mr. Campas: I am the business manager for the Hotel and Restaurant Employees' Union, Local 583, in Troy.

Mr. Tavenner: Where do you reside?

Mr. Campas: 129 Fourth Street, Troy, N. Y.

Mr. Kearney: Counsel, may I interrupt just a moment?

In order not to disturb the witness' testimony, I wish the cameramen would take pictures now before the witness starts his testimony.

Mr. Tavenner: Mr. Campas, will you advise the committee, please, what your formal education training has been?

Mr. Campas: I went as far as the ninth grade, public schools.

Mr. Tavenner: Will you tell the committee, please, what your work record has been since 1934?

Mr. Campas: Well, from 1934 until early 1936 I worked as a busboy in the city of New York.

In the summer of 1936 I worked in a summer resort in Vermont as a busboy, in a hotel.

From the fall of 1936 until the early part of 1937 I worked as a busboy in the city of Albany, in various restaurants.

From 1937 until the early part of 1940 I worked as a waiter in the city of Albany, in various restaurants and hotels.

From 1940 until the middle of 1945 I worked as a waiter in the city of Troy, in various hotels and restaurants.

With one exception, of approximately 3 months in 1943, that I was in the city of New York, that I was working as a waiter.

From 1945 until 1946, for approximately 10 months, I was the business agent of the Hotel and Restaurant Employees' Union in Albany.

From 1946, in July, until the present date I have been business agent and business manager for the Hotel and Restaurant Employees' Union in Troy.

Mr. Tavenner: And what is the number of your local union?

Mr. Campas: 583.

Mr. Tavenner: The committee has information, Mr. Campas, that you have had some experience in the Communist Party. Is it true that you have been a member of the Communist Party or affiliated with it or any of its organizations?

Mr. Campas: That is true.

Mr. Tavenner: Will you tell the committee, please, when your affiliation with the Communist Party or any of its groups first took place, and where?

Mr. Campas: Well, it first took place in the city of New York sometime in the early part of 1935, when I joined the Young Communist League.

Mr. Tavenner: Will you tell the committee, please, the circumstances under which you became a member of the Young Communist League in New York?

Mr. Campas: Well, at that time I was working as a bus-boy, as I stated previously, off and on. Work was not too [fol. 107] plentiful; conditions were not the best; the hours were quite long; the pay was quite low, and the Communists at that time promised that they would try to work and improve conditions for labor, and being interested in labor, because I was a worker myself, I fell for their line and I joined.

In addition, they compared conditions in the United States with conditions in the Soviet Union. For example, they pointed out at that time there was no depression in the Soviet Union; everybody was working; there were no labor problems, while in the United States we had unemployment, hunger marches, and so on.

In other words, what happened was that they painted such a rosy picture of what they were going to do and what they could do that I joined, primarily because I was interested as a worker in trying to better myself and to better the conditions of the workers generally.

Mr. Tavenner: How long did you remain a member of the Young Communist League in the City of New York?

Mr. Campas: Until the early part of 1936, when I went to Vermont.

Mr. Tavenner: During that period of time what was the chief interest of the Young Communist League in the city of New York?

Mr. Campas: Well, the group that I belonged to was composed of people who were in various hotel and restaurant unions and the primary work of that group was to work within these hotels and restaurant unions.

At that time there were two types of restaurant workers' unions. There was what is known as the leftwing Food Workers' Industrial Union and there was the American Federation of Labor Restaurant Workers' Union, and the purpose of the Communists in the food workers' union was to try to get enough influence in the American Federation of Labor Restaurant Workers' Union so that the Food Workers' Industrial Union could be taken into the American Federation of Labor and then there would be only one union and, by the same token, the Communists in the leftwing union would become part of the American Federation of Labor.

Mr. Tavenner: Who were the leaders in the Young Communist League in New York—that is, the branch or the group that you were affiliated with?

Mr. Campas: Well, the leader of that particular branch was a girl by the name of Irene Short.

Mr. Tavenner: Do you know how she was employed at that time?

Mr. Campas: She worked as a counter girl, if I recall correctly, in one of the cafeterias.

Mr. Tavenner: Will you give us the names of all the persons who were members of the Young Communist League group of which you were a member that you can now recall?

Mr. Campas: Well, in addition to the one named, I remember Shirley Fields, Jim Bartlett, who was an organizer of the Young Communist League; Leo Gersteinheim.

Mr. Tavenner: Will you spell that name, please?

Mr. Campas: Gersteinheim, G-e-r-s-t-i-n-h-e-i-m.

In addition to those, there was Arthur Barry—

Mr. Tavenner: Will you spell the last name?

Mr. Campas: B-a-r-r-y; Manning Johnson.

Mr. Tavenner: How well did you learn to know Manning Johnson?

[fol. 108] Mr. Campas: Well, he was a member of the Communist Party and he was assigned to this group as sort of an overseer, being an older person.

Mr. Tavenner: Did you later learn that Manning Johnson had risen to a very high place in the Young Communist League and in the Communist Party in this Country?

Mr. Campas: Yes; I heard of it, but I didn't know it of personal knowledge.

Mr. Tavenner: In fact, he was sent to a special school in Moscow?

Mr. Campas: I heard that also.

Mr. Tavenner: Have you had any occasion to be associated with him since your membership, since you left New York City in 1936?

Mr. Campas: No; not that I can recall. I think the last time I saw him was approximately that time.

Mr. Tavenner: I think I should state for the benefit of the record here, although it is well known generally, that Manning Johnson finally broke with the Communist Party and has testified very fully before our committee.

Mr. Campas: In addition to those names, I have one more name of the persons I met during that period. Bill Lawrence. He was a Communist Party organizer for the midtown area in the city of New York, what was known as section 2—

that's the garment area—who later was sent to Spain as a commissar of some sort during the civil war in Spain.

Mr. Tavenner: Was Lawrence a full-time functionary of the Communist Party at that time or did he have other employment?

Mr. Campas: No; at the time I met him he was a full-time organizer for the Communist Party.

Mr. Tavenner: I believe you stated in 1936 you left New York City, and went, for a short time, to Vermont.

Mr. Campas: Yes.

Mr. Tavenner: Did you have any Communist Party experience in Vermont?

Mr. Campas: No, sir.

Mr. Tavenner: How long were you in Vermont?

Mr. Campas: Approximately 3 months.

Mr. Tavenner: Then, after leaving Vermont, I believe you came to Albany; is that—

Mr. Campas: That's correct, sir.

Mr. Tavenner: Did you affiliate with the Young Communist League in Albany on your arrival here?

Mr. Campas: Yes, sir.

Mr. Tavenner: How long did you remain affiliated with the Young Communist League here in Albany?

Mr. Campas: From the fall of 1936 until approximately the end of 1937.

Mr. Tavenner: What was the reason for your disassociation with the Young Communist League in 1937?

Mr. Campas: Well, if I remember correctly, at that time, upon the reaching of a certain age, the purpose of the Young Communist League were more or less automatically transferred into the Communist Party if they were acceptable to the party, and upon reaching my 21st birthday I became a member of the Communist Party.

Mr. Tavenner: And that took place here in Albany?

[fol. 109] Mr. Campas: Yes, sir.

Mr. Tavenner: Before proceeding to your activity within the Communist Party in Albany, I would like to ask you whether or not you can advise the committee of the activities of the Young Communist League here in Albany between 1936 and 1937 when you went into the Communist Party.

Mr. Campas: Well, the group, as such, was quite small and primarily composed of the sons and daughters, relatives of Communist Party members and at that time—

Mr. Tavenner: At that point, can you tell the committee what method was used, if you know, of getting the sons and daughters of Communist Party members into the Young Communist League?

Mr. Campas: Well, that I can't state from personal knowledge, not being the son of a Communist, but I suppose the father, or whoever the elder was—he more or less indoctrinated the child and, upon reaching the age, he brought him into the Young Communist League.

Mr. Tavenner: Very well, if you will proceed—

Mr. Campas: Well, the work, as I said—the group was quite small, and the work that they did—at the time the Spanish civil war was in progress and they were active in that, in attempting to lift the Neutrality Act by circularizing Members of the Congress, urging them to repeal the Neutrality Act.

They participated in work for boycotting Japanese goods.

They participated in work for boycotting the shipment of military supplies to Japan, because at that time the Japanese were fighting in China.

And they were also active, to some extent, in the American Labor Party.

Mr. Tavenner: There must have been leadership exerted over that group in order to take part in the activities you have described. Do you know the source of that leadership at that time?

Mr. Campas: Well, the source of the leadership is the Communist Party itself. The organizer, if that's who you mean, was a person named Herbert Parker.

Mr. Tavenner: Do you know anything of the present whereabouts of Herbert Parker?

Mr. Campas: No, sir; I haven't seen him since that time.

Mr. Tavenner: Will you give the committee the names of those that you can recall who were members of the Young Communist League with you in Albany?

Mr. Campas: I remember Arnold Dorenz.

Mr. Tavenner: Will you spell the last name?

Mr. Campas: D-o-r-e-n-z.

Mr. Tavenner: D-o-r-e-n-z?

Mr. Campas: Yes, sir. Louis Geller.

Mr. Tavenner: Will you spell the last name?

Mr. Campas: G-e-l-l-e-r.

And Ruth—

Mr. Tavenner: Now, just a moment. Can you give any further information or description of Louis Geller?

Mr. Campas: No, sir; I haven't seen him since that time, that I can recall. I met him on the street some time later, but outside of that I don't know anything about him.

[fol. 110] Mr. Tavenner: Will you proceed?

Mr. Campas: One more person—Ruth Jennings.

Mr. Tavenner: Can you give any more descriptive information regarding her?

Mr. Campas: Well, she was from Schenectady, and she was connected with work in organizing the American Locomotive Workers at the time.

That is about all.

Mr. Tavenner: What area was covered by the membership of the Young Communist League here in Albany?

Mr. Campas: It was Albany, the group I was in, but this particular girl came over from Schenectady at times.

Mr. Tavenner: Will you tell the committee, please, any further circumstances that you recall regarding your transition from membership in the Young Communist League, to membership in the Communist Party?

Mr. Campas: Well, there was nothing that I could add, except what I have already said—more or less automatically I was transferred from one group into the other.

Mr. Tavenner: When you became a member of the Communist Party, were you a member of a labor union?

Mr. Campas: Yes, sir.

Mr. Tavenner: What was the designation of your union?

Mr. Campas: It was the Hotel and Restaurant Employees' Union, Local 471.

Mr. Tavenner: At the time you became a member of the Communist Party, had the Communist Party succeeded in obtaining any extensive membership in that union?

Mr. Campas: Well, not very extensive at that time. The extensive membership came later.

Mr. Tavenner: Will you explain to the committee all

you can now recall relating to the group of the Communist Party that you united with here in Albany?

I believe we should start out by stating what its objectives were, as far as you could ascertain from your membership in it.

Mr. Campas: Well, this particular group that I became a member of was composed exclusively of members of the hotel and restaurant union, and their objective was to get control of the union. That was the primary objective.

Mr. Tavenner: How did this group of the Communist Party proceed in its effort to get control of your local union?

Mr. Campas: Well, the first step—they recruited the business agent of the union into the Communist Party.

Mr. Tavenner: Who was that?

Mr. Campas: Jack Davis.

Mr. Tavenner: Then what followed after that?

Mr. Campas: Well, the second step—the person who recruited Jack Davis into the Communist Party became an organizer for the union. The person at present is deceased, and the—

Mr. Tavenner: This person that you say is now deceased, what function did he perform in the Communist Party?

Mr. Campas: Well, in the Communist Party he was the leader of that particular group that we were a part of. In [fol. 111] other words, he did all the leading work and it was his assignment, I presume, to get the business agent of the union into the Communist Party.

Mr. Tavenner: In light of the activity of that individual, I think I should ask you his name.

Mr. Campas: His name was Gus Cakoulis.

Mr. Tavenner: Will you spell the last name, please?

Mr. Campas: C-a-k-o-u-l-i-s.

Mr. Tavenner: He was the leader of this Communist group?

Mr. Campas: Yes.

Mr. Tavenner: Was he a member of your local union at the time you first learned he was the leader of your group of the Communist Party?

Mr. Campas: Yes, sir.

Mr. Tavenner: What else was done in the effort of the Communist Party to gain control of your local union?

Mr. Campas: Well, the next step—I became the president of the union.

Mr. Tavenner: Did your membership in the Communist Party contribute to your being elected as president?

Mr. Campas: Yes, sir.

Mr. Tavenner: Will you explain to the committee, please, the basis for your statement?

Mr. Campas: Well, when the question of nominations for officers of the union came up, the members of the Communist Party in that union caucused and decided as to who would be the candidate. Having been picked, they went out and they campaigned to see that the candidates which they had picked and endorsed were sure of election.

Mr. Tavenner: Was it publicly known among the members of your union that you were a member of the Communist Party?

Mr. Campas: I don't think so.

Mr. Tavenner: Had an effort been made to conceal the fact of membership of those who were members of the Communist Party?

Mr. Campas: Well, we didn't go out and advertise it, if that's what you mean, but definitely there was some effort made that it was not to be known that the people who were in the Communist Party were such because I think it would have been quite unpopular.

Mr. Tavenner: How many members did you have in your local union at that time?

Mr. Campas: Approximately 700.

Mr. Tavenner: Will you tell the committee whether or not this Communist Party group was successful in taking over this local union at that time?

Mr. Campas: Yes; they were, because in addition to the three officers they are able to get a couple of their members on the executive committee. Consequently, they had practically full control of the leadership at least.

Mr. Tavenner: What do you think was the greatest strength of the Communist Party numerically at any one time in your local union?

Mr. Campas: Not more than 10 at one time.

Mr. Tavenner: How can it be that 10 members of the Communist Party could take over, so to speak, a union consisting of 700 members?

Mr. Campas: Well, the members of the Communist Party who were in the union were most active members. They [fol. 112] worked very hard. If there was anything to be done, they were the ones that went out and did it. The membership as a whole of the union were indifferent. They didn't participate actively in the union affairs. They just took the attitude: "Oh, well, I am a member. I pay my dues. We'll let George do it." The Communists didn't operate that way. They were the ones that did it. They were George. They did the work and, consequently, they gained the confidence of these people and they were able to stay in leadership.

Mr. Scherer: The Communists in the labor union were also specifically trained in methods of taking over the labor unions and controlling them, weren't they?

Mr. Campas: That's true.

Mr. Scherer: You received special instructions?

Mr. Campas: That's correct, as far as I know.

The membership of the union failed to exercise their rights—democratic rights in coming to vote, attending meetings, and so forth—and, naturally, they didn't know there was such a group active in carrying on this work.

Mr. Tavenner: Your testimony in that respect is quite similar to the testimony of another witness before this committee a year or two ago, Mr. Matthew Cvetic, who described to this committee how a labor union in the steel industry in Pittsburgh, consisting of 2,800 members, was taken over by a Communist group organized among them and that group never consisted of more than 20 individuals.

Are you now a member of the Communist Party?

Mr. Campas: No, sir.

Mr. Tavenner: Without going into details, when did you cease to become a member of the party?

Mr. Campas: The early part of 1948.

Mr. Tavenner: In looking back over your experience in the Communist Party, what would be the most effective manner in which the rank and file of a union could oppose

the taking over of their union by members of the Communist Party?

Mr. Campas: The most effective way would be for them to take an interest in their union, to attend their meetings, to exercise their right to go and vote and participate in all the activities of the union and not sit back and let somebody else do the job. As the honorable Congressman said, they were trained to do the job.

Mr. Tavenner: Of course, also in the fight of the rank and file of a union to keep the Communists out of leadership, it is necessary for them to know who the members of the Communist Party are; is that not true?

Mr. Campas: Yes, sir.

Mr. Tavenner: And in that respect, the work of this committee is of such value, would you not say, to rank-and-file members of a union, in that it frequently discloses those who are active in the Communist Party?

Mr. Campas: Yes, sir; and that's the reason I am here.

Mr. Scherer: I believe, Mr. Campas, you said, in the beginning of your testimony, that there was some infiltration in the American Labor Party by the Communists, or what statement did you make with reference to Communists connection with the American Labor Party?

[fol. 113] Mr. Campas: I said the Young Communist League at that time did do some work in connection with the American Labor Party, in the sense that they passed out leaflets and campaign literature, and such as that.

Mr. Scherer: Was there attempt in your membership in the Communist Party to take over the American Labor Party?

Mr. Campas: Not at that time.

Mr. Scherer: Do you have some questions, Mr. Counsel?

Mr. Tavenner: Yes.

You did have experience of that character at a later time?

Mr. Campas: Yes, sir.

Mr. Tavenner: Will you state what other activities this group of the Communist Party engaged in, in addition to its effort to take over your local union?

Mr. Campas: Well, after gaining control of the union, they proceeded to participate in the same kind of work I mentioned earlier of the Young Communist League—the

Japanese boycott, boycott the shipping of military supplies to Japan; raising of funds for the Spanish relief; petitioning Congress to repeal the Neutrality Act; attempting to recruit some members of the union into the Communist Party, and raising funds for the Communist Party.

Mr. Tavenner: What was the source of the directives which led to that action?

Mr. Campas: Well, at most of the meetings of this group I attended at that time there was a—what was known as the section organizer present—that is, the organizer of the Communist Party—and he usually brought the directives to the group from the district headquarters which was in New York City.

Mr. Tavenner: Will you give us the names of those who acted as district organizers or section organizers during the period that you are now speaking of? That would be from 1937 until about what date?

Mr. Campas: Until the first part of 1940, April or May.

At that time, I would say the early 1937, there was Joseph Klein.

Mr. Tavenner: Will you spell Klein?

Mr. Campas: K-l-e-i-n.

Mr. Tavenner: Do you know where Joseph Klein is now?

Mr. Campas: No, sir.

Mr. Tavenner: Did you learn whether he left this country at a later date?

Just answer "Yes" or "No."

Mr. Campas: Only from hearsay, yes.

Mr. Tavenner: Do you know whether this person, Joe Klein, was known by any other name?

Mr. Campas: Yes, sir; he was known by the name of Joseph Stone, S-t-o-n-e.

Mr. Tavenner: Well, you say he was an organizer during part of this period?

Mr. Campas: Yes, sir.

Mr. Tavenner: Will you name others, please?

Mr. Campas: Dorothy Loeb—L-o-e-b—and also known as Dorothy Klein, supposedly his wife, and acted as his assistant.

And later, for the most part from 1938 to 1940, there was Max Gordon.

[fol. 114] Mr. Tavenner: Were all those individuals located in the city of Albany during the period they were section organizers or district organizers?

Mr. Campas: No, sir; Klein and Loeb were in Schenectady in 1937, and after they left Gordon was in Albany.

Mr. Tavenner: You spoke of a section organizer. What was meant by the term "section"?

Mr. Campas: Well, if my memory serves me correctly, the State of New York was known as district 2 and it was divided up into sections, and the capital district was a section. That would be Albany, Troy, Schenectady, and the surrounding communities.

Mr. Tavenner: Were those occasions when section meetings were held—that is, where representatives from the different branches were in attendance at a conference or meeting?

Mr. Campas: Yes; they held what were known as section conventions.

Mr. Tavenner: Were these occasions when section meetings were other groups of the Communist Party which were interested in different objectives from that which your group was primarily interested?

Mr. Campas: Well, there were, to my knowledge—not personal knowledge that I attended these meetings, but from what I understood at that time there was a State employees' group, a professional group, a peace group and one neighborhood group.

Mr. Tavenner: I believe you stated you had not at any time attended one of the meetings of those groups?

Mr. Campas: Not that I can recall.

Mr. Tavenner: Did you attend a section meeting made up of representatives from those various groups?

Mr. Campas: Yes, sir.

Mr. Tavenner: How many section meetings did you attend?

Mr. Campas: One that I can recall.

Mr. Tavenner: When was it held and where was it held?

Mr. Campas: It was held in the city of Albany, some time in 1938 or early 1939.

Mr. Tavenner: How many people were in attendance at that meeting?

Mr. Campas: At this moment, I would say approximately 50 to 75; but they were not all delegates. Some of them were just members of the Communist Party who came in as spectators and sat in, but didn't participate. I couldn't say how many actual delegates there were, but there were approximately 50 to 75 people in the room.

Mr. Tavenner: Who was the Communist Party organizer at that time?

Mr. Campas: Max Gordon.

Mr. Tavenner: What was the general purpose of that section meeting?

Mr. Campas: Well, at that time the Communist Party operated in this way: That prior to a national convention they would have sectional conventions who would elect delegates to district conventions, and then the district delegates would elect delegates to the national convention; and the line that was going to be followed that was taken by the national convention was discussed beforehand in the sections and districts.

[fol. 115] Mr. Tavenner: Do you recall any action that was taken at that particular section meeting which is still in your memory?

Of course, it wouldn't be in your memory unless you recalled it, but is there anything of any particular importance that you can recall that occurred during that meeting?

Mr. Campas: No, except the reports were made of the various groups that were represented; but I cannot recall any particular action that was taken or any particular subject that was discussed.

Mr. Tavenner: What was the nature of the reports that were made from these various cells or groups of the party?

Mr. Campas: Well, each group reported on their activity and the progress they were making in carrying out the work of the Communist Party.

Mr. Tavenner: But you do not recall the substance of those reports at this late time?

Mr. Campas: No; I do not.

Mr. Tavenner: Can you recall who made reports at that meeting, or some of them who made reports?

Mr. Campas: Well, the person who made the report for

our group is the same person I mentioned earlier, who is now deceased.

The main report was made by a woman. That was what I would call the keynote address, as they do in all political conventions. That is, someone makes the keynote address, and this woman did that.

Mr. Tavenner: Who was she?

Mr. Campas: At that time she was known by the name of Amalia Pesko; now known as Crago.

Mr. Tavenner: What is the spelling of Pesko? O

Mr. Campas: P-e-s-k-o.

Mr. Tavenner: Can you recall the names of other persons who reported the activities of their branches or cells?

Mr. Campas: No; I cannot at this time.

Mr. Tavenner: Can you recall the names of some of those who were present and took part in this section meeting?

Mr. Campas: Yes, sir.

Mr. Tavenner: I would like for you to give the committee the names of those persons.

Mr. Campas: Well, in addition to myself and this person who is now deceased and Pesko, there was Jack Davis, who was at that time the business agent of our union.

From Gloversville, there was a Clarence Carr.

Mr. Tavenner: Did this section include Gloversville?

Mr. Campas: Well, as far as I know, it did.

Mr. Tavenner: Will you give us the names of others, if you can recall them?

Mr. Campas: John Wright.

Mr. Tavenner: Do you know what branch or group of the Communist Party he was from?

Mr. Campas: I understood he was from the State employees' group at that time.

Mr. Tavenner: Can you give any further identifying information regarding him?

When you say he was from the State employees' group, did that mean he was employed by the State government at that time?

[fol. 116] Mr. Campas: That's what I understood, and anything further is that he was active in the State and for his union. He was head of, what was known at that time as, State, County, and Municipal Workers' Union.

Mr. Tavenner: Did you have any association at any later time in Communist Party work with John Wright?

Mr. Campas: Not directly, only that I saw him occasionally; and after seeing him at this meeting, then I knew that he was a Communist.

Mr. Tavenner: All right, will you proceed, please?

Mr. Campas: Another person present at this meeting was Charles Dorenz.

Mr. Tavenner: Can you give any further identifying information regarding him?

Mr. Campas: Well, as far as I knew, he was a painter, member of the painter's union, and also a delegate to the Central Federation of Labor from the painters' union.

Mr. Tavenner: Very well. Will you proceed, please?

Mr. Campas: Another person present at this convention was Herbert Feay.

Mr. Tavenner: Will you spell the last name, please?

Mr. Campas: As far as I can recall, it was spelled F-e-a-y.

Mr. Tavenner: Can you give us further identifying information regarding him?

Mr. Campas: As far as I knew, he was a State employee, and that is about all I knew of him.

Another person present at this meeting was David Rappaport.

Mr. Tavenner: Do you know what branch of the Communist Party he was a member of?

Mr. Campas: As far as I know, he was a member of the State employees' branch.

Mr. Tavenner: Can you give us any further identifying information regarding Mr. Rappaport?

Mr. Campas: Also active in the State, County and Municipal Workers' Union, which at that time was trying to organize the State employees.

Mr. Tavenner: Are there any other members or any other persons whose names you can now recall who attended that section convention or such meeting?

Mr. Campas: Yes; James King—K-i-n-g.

Mr. Tavenner: Can you give further identifying information regarding him?

Mr. Campas: At that time I understood he was an officer of the State, County and Municipal Workers' Union and

that he also acted as an officer for a local of a cleaners' and dyers' union that was formed in the city.

Mr. Tavenner: Is the name Rappaport spelled as it is pronounced?

Possibly you should spell it.

Mr. Campas: R-a-p-p-a-p-o-r-t.

Mr. Tavenner: Were there any others who attended that convention that you can now recall?

Mr. Campas: Well, the organizer, Max Gordon, of course; he was there; but I cannot recall at this time the names of any other persons who were present.

[fol. 117] Mr. Tavenner: Do you recall who were elected at this convention to attend the State convention of the Communist Party?

Mr. Campas: The only one that I can remember was Max Gordon, the organizer. I knew he was elected, but outside of that I don't remember.

Mr. Tavenner: There were others elected, but you do not recall who they were?

Mr. Campas: As far as I can recall, there were two elected. He was one, and another; but I cannot recall at this time who the other person was.

Mr. Tavenner: Did you ever attend the State convention of the Communist Party as a delegate?

Mr. Campas: No, sir.

Mr. Tavenner: Not having attended a State convention, I assume, then, you did not attend a national convention?

Mr. Campas: Not as a delegate. I was in New York at one time during the course of a national convention. I did attend—not as a delegate but as a spectator. I drove down to New York with Max Gordon. He was a delegate and I just drove down with him and attended the convention.

Mr. Tavenner: Did you at any time attend a State convention of your union, which was the Hotel and Restaurant Employees' Union?

Mr. Campas: Not at that time.

Mr. Tavenner: Not during the period from 1936 until 1940?

Mr. Campas: That's correct.

Mr. Tavenner: Did you attend any national convention

of your union during that period of time, between 1936 and 1940?

Mr. Campas: No, sir.

Mr. Tavenner: The committee has ascertained from other witnesses in the past that it was the practice where any considerable strength had developed within a union for the Communist Party delegates to convention to caucus in advance of the holding of the conventions for the purpose of endeavoring to plan and to put over the Communist Party line at the particular convention. Did you ever have occasion to attend any fraction meetings of the Communist Party that had any purpose of that kind in mind?

Mr. Campas: Yes, sir; I did, 2 or perhaps 3 such fraction meetings, which at that time were known as the National Food Fraction, which was composed of Communist Party members who were either members or officers of various restaurant and hotel unions.

Mr. Tavenner: Were those Communist fraction meetings made up of representatives of all parts of the United States generally?

Mr. Campas: Yes, sir, as far as I can recall, although the ones I attended were primarily from the eastern part of the United States.

Mr. Tavenner: When did you attend the first of such fraction meetings?

Mr. Campas: In 1937—something like that—to my knowledge.

Mr. Tavenner: And when did you attend the second?

Mr. Campas: I would say 1938.

Mr. Tavenner: Did you say you attended a third or not?

Mr. Campas: Yes; I attended two fraction meetings as such, and one was in connection with my going to New York with Max Gordon to this national convention. The [fol. 118] fraction took the occasion of the national convention, at which there were a number of food workers present, to hold another fraction meeting, which did not have any connection with the national convention of the Communist Party as such, but they just took the occasion being these people were in the city all at one place.

Mr. Tavenner: Would you state the dates and the places of these fraction meetings which you attended?

Mr. Campas: The nearest I can say is 1937 and 1938, and the place New York City.

Mr. Tavenner: What was the general purpose of these fraction meetings?

Mr. Campas: Well, their purpose was to coordinate the work of the Communist Party members within the Hotel and Restaurant Employees' Union. Then, they also planned the program and what action the Communist Party members would take at the national conventions of the union, such as resolutions. In other words, they planned what resolutions they would endorse and what resolutions they would introduce and what resolutions they would fight against.

In addition to that, they also planned the question of which candidate for office in the national convention of the union they would support and which they would oppose.

In other words, that was the coordinating body of the Communist Party within that particular union.

Mr. Tavenner: Who took the leadership in these fraction meetings that you attended?

Mr. Campas: Jay Rubin.

Mr. Scherer: Were any of the national officers of the Hotel and Restaurant Employees' Union members of the Communist Party at any time during your experience?

Mr. Campas: Not to my knowledge.

Mr. Tavenner: Will you give the committee, please, the names of all of the members of your union who attended these Communist Party caucuses which you have just described that you can now recall?

Mr. Campas: You mean the national?

Mr. Tavenner: Yes; the national.

Mr. Campas: In addition to Jay Rubin, there was Harry Rich—spelled as pronounced.

Mr. Tavenner: And I would like, in the course of your statement as to the names of these persons, to have you give such identifying information regarding them as you are able to give.

Mr. Campas: Well, Jay Rubin is now an officer of the Hotel and Club Employees' Union, Local 6, New York City.

Harry Rich was an officer of Cooks' Union, Local 89, New York City. He is now out. I have no knowledge of his whereabouts.

Another person is Sam Kramberg.

Mr. Tavenner: Will you spell the name, please.

Mr. Campas: K-r-a-m-b-e-r-g.

He was an officer of Cafeteria Workers' Union, Local 302, in New York City. He is now out and I have no knowledge of his whereabouts.

Mike Obermier—O-b-e-r-m-i-e-r. He was an officer of Local 6, Hotel and Club Employees' Union. He has since been deported to Germany, according to the newspapers. [fol. 119] Willie Schulz—S-c-h-u-l-z. He was an officer of Waiters' Union, Local 219, New York City. Since that time he has been out of the union and I don't know where he is.

William Albertson—A-l-b-e-r-t-s-o-n. He was an officer of Waiters' Union, Local 16, New York City. He is out of the union and I have no knowledge of his whereabouts.

David Herman—H-e-r-m-a-n. He is now president of the Hotel and Club Workers, Local 6, New York City.

Nick Lazari—L-a-z-a-r-i. He was from Pittsburgh. He was an officer of the Hotel and Restaurant Union there; since has been out of the union. I have no knowledge of his whereabouts.

With him was Carl Hacker—H-a-c-k-e-r. He was originally from Pittsburgh. At present he is an international organizer for the Hotel and Restaurant Employees' Union, assigned to the capital district.

Costas Alexiou—A-l-e-x-i-o-u—an officer of the Washington Hotel and Restaurant Employees' Union. That is Washington, D. C. From what I understand he has been ousted from the union and I don't know of his whereabouts.

James McNamara—M-c-N-a-m-a-r-a. He was an officer of the Hotel and Restaurant Workers' Union in the Washington, D. C., local 80.

Mr. Scherer: You say he is a member of the Communist Party?

Mr. Campas: Yes, sir.

Mr. Scherer: Or he was a member?

Mr. Campas: Well, he was at the time I am speaking of, between 1937 and 1939—1937, 1938, and 1939.

Mr. Scherer: Is he with the United States Government at the present time?

Is that the labor conciliator?

Mr. Campas: No, sir; he was the officer of the union.

Mr. Scherer: I mean presently do you know his present occupation?

Mr. Campas: No; I don't know.

Mr. Scherer: Is that James P. McNamara?

Mr. Campas: Well, I don't know his middle initial.

Mr. Scherer: Was he at one time president of the national association—

Mr. Campas: No, sir.

Mr. Scherer: Or national vice president?

Mr. Campas: I think he was.

Mr. Tavenner: See if you can recall any other identifying fact regarding him.

Mr. Campas: Well, I don't—I haven't anything further. That's the only thing I remember—is the name. He was introduced to me by that name. That's all I remember. If I saw him today, I probably wouldn't recognize him.

Mr. Tavenner: All right, sir.

Are there any others that you can now recall?

Mr. Campas: Ishmael Flory—F-l-o-r-y.

Mr. Tavenner: Can you give us any further identifying information regarding him?

Mr. Campas: He was connected with the dining car employees.

Mr. Tavenner: Can you recall the names of any others?

Mr. Campas: No, sir.

[fol. 119a] (At this point Mr. Campas conferred with Mr. Jones.)

Mr. Tavenner: You have stated in 1938 you were the president of your local union?

Mr. Campas: Yes, sir.

Mr. Tavenner: Will you give the committee the names of other members of your union who were members of your group in the Communist Party between 1936 and 1940?

Mr. Campas: Jack Davis, who was the business agent.

Mike Yarman—Y-a-r-m-a-n.

Mr. Tavenner: Will you give us more identifying information regarding him?

Mr. Campas: He worked as a busboy and dishwasher in the city of Albany, in various restaurants.

And George Stathis.

Mr. Tavenner: How was he employed?

Mr. Campas: He was working as a waiter; still waiting as as a waiter.

Sam Edelstein—E-d-e-l-s-t-e-i-n. He was working as a clerk and a kitchen worker.

And Selma Lahne—L-a-h-n-e. She worked as a waitress.

In addition to that, there were 5 others who are deceased.

Mr. Tavenner: Well, I will not ask you the names of the deceased parties unless, according to your personal knowledge, they played an important part in the leadership of your group.

Mr. Campas: The only person was the one I mentioned earlier, Cakoulis.

Mr. Tavenner: How long did you continue to be a member of the Communist Party group which was organized within your labor union here in Albany?

Mr. Campas: Until the spring of 1940.

Mr. Tavenner: What occurred in the spring of 1940 which had any bearing on your leaving the Communist Party at that time?

Mr. Campas: Well, in the spring of 1940 the union elections were held and the candidates that were put up by the Communist Party were defeated.

Mr. Tavenner: What was the result of the defeat of the Communist Party leadership in that election?

Mr. Campas: Well, the result of the defeat in the union of the Communist Party's slate, so to speak, resulted in the disintegration and the breaking up of this group of the Communist Party within the union.

Mr. Tavenner: Was there any disciplinary action taken by the Communist Party leadership arising out of that election in the union?

Mr. Campas: Yes, sir; there was, because some of the members of the group disagreed on the question of who they were to support during the election and they, of course,

were disciplined. I cannot recall the names of them now, but they were disciplined at that time for supporting someone other than the person the Communist Party designated.

Mr. Tavenner: What was the nature of the discipline that was imposed?

Mr. Campas: As far as I can recall, 1 or perhaps 2 persons were expelled from the Communist Party for that action.

Mr. Tavenner: In other words, when a person was guilty of being a deviationist—

[fol. 119b] Mr. Campas: He was disciplined.

Mr. Tavenner: Even to the point of exercising his right to vote, he would be disciplined by the Communist Party?

Mr. Campas: That's correct, sir.

Mr. Tavenner: Are you acquainted with any other instances in which the Communist Party resorted to its tactics of disciplining its members for being deviationists?

Mr. Campas: Well, in my case. I was expelled from the Communist Party.

Mr. Tavenner: That was at a later time?

Mr. Campas: Yes, sir.

Mr. Tavenner: I will ask you more in detail about that later.

As a result of what occurred in 1940, you say your group of the Communist Party disintegrated?

Mr. Campas: Yes, sir.

Mr. Tavenner: Did you continue your membership in the party at that time?

Mr. Campas: No, sir. I lost interest in it at that time. I moved to Troy, and I went to work as a waiter, and I just drifted away from any activity concerning the Communist Party.

Mr. Kearney: The committee will be in recess for 10 minutes.

(Whereupon, at 11:37 a. m., the hearing was recessed, to reconvene at 11:47 a. m.)

(The hearing reconvened at 11:52 a. m.)

Mr. Kearney: You may proceed, Mr. Tavenner.

Mr. Tavenner: You stated that you accompanied Mr. Max

Gordon, Communist Party organizer of this section, on a trip to New York when he was a delegate to the national convention of the Communist Party.

Mr. Campas: Yes, sir.

Mr. Tavenner: Can you fix the year?

Mr. Campas: Thirty-seven or 1938. That's the nearest I can fix it.

Mr. Tavenner: You referred to the fact that a fraction meeting was held at that time, and that you attended it.

Mr. Campas: Yes, sir.

Mr. Tavenner: Did anyone else, any other person, accompany you or Mr. Gordon to that convention?

Mr. Campas: Not that I recall.

Mr. Tavenner: In the caucus meeting that was held at that time, did you recognize any persons from this general area in attendance?

Mr. Campas: Well, the person I recognized at this particular work—it became a fraction meeting actually—was this Carl Hacker. He is the one that made the leading report at the fraction. He made some sort of a report, and I remembered him at that time.

Mr. Tavenner: Do you recall the substance of the report?

Mr. Campas: No, sir.

Mr. Tavenner: But you do know at this fraction meeting which was held just prior to a convention of the Communist Party, that Mr. Hacker made a report?

Mr. Campas: Yes, sir.

Mr. Tavenner: Now, at the break in your testimony, when the recess was taken, you told the committee that you left Albany in 1940 and took up employment in Troy, N. Y., [fol. 119c] as a waiter, and that at that time you were not connected with the Communist Party or that you had fallen out of the ranks of the Communist Party?

Well, did you later reaffiliate with the Communist Party?

Mr. Campas: Yes, sir.

Mr. Tavenner: At the time you went to Troy, were you personally aware of the existence of a Communist Party cell in Troy; that is, when you went there in 1940 from Albany.

Mr. Campas: Not to my knowledge.

Mr. Tavenner: How long was it before you became aware of the existence of the Communist Party unit or group in Troy?

Mr. Campas: 1947.

Mr. Tavenner: Will you tell the committee, please, just what occurred—or let me ask you this before we come to that: Did you attend any State or national convention for your union between 1940 and 1947?

Mr. Campas: Yes, sir; two.

Mr. Tavenner: Two?

Mr. Campas: Yes; one in 1941 and one in 1947.

Mr. Tavenner: Did you take part in any Communist Party activities at either of those conventions?

Mr. Campas: No, sir.

Mr. Tavenner: Why was that?

Mr. Campas: Because I was not a member of the Communist Party at that time.

Mr. Tavenner: Were you approached at either of those conventions to take part in any Communist Party activities?

Mr. Campas: Yes; I was approached at the 1947 convention by a person whom I had previously met in one of the national fraction meetings to attend one of their meetings, and I told him at that time I was not a member and, therefore, I was not interested, and I did not attend.

Mr. Tavenner: Do you recall the name of the individual who approached you?

Mr. Campas: Yes, sir; Harry Rich.

Mr. Tavenner: Do you recall the period in 1947 when that convention was held?

Mr. Campas: Sir, I don't.

Mr. Tavenner: Did you state that occurred in the 1947 convention or the 1941 convention?

Mr. Campas: Oh, the 1947 convention; in the early part of the year. The convention was held in Milwaukee, Wis.

Mr. Tavenner: Prior to the holding of that convention, when Harry Rich approached you, had you become identified in any way with the Communist Party group in Troy?

Mr. Campas: No, sir; not that I can recall, because he approached me at the convention. He didn't approach me in Troy.

Mr. Tavenner: What occurred on your return from that convention to Troy?

(Representative Gordon H. Scherer left the hearing room at this point.)

Mr. Campas: I said that upon returning from this convention I was approached by the attorney for the union in Troy. This attorney was the attorney for the union before I become business agent for the union in Troy. So, he approached me on the question of the Communist Party. [fol. 119d] He told me that he knew I had been a member before, and he invited me to come to his house and attend meetings of the Communist Party, which I did.

Mr. Tavenner: Who was this person?

Mr. Campas: His name is I. Nathan Sidman.

Mr. Tavenner: I. Nathan Sidman?

Mr. Campas: Yes, sir.

Mr. Tavenner: Spell the last name.

Mr. Campas: S-i-d-m-a-n.

Mr. Tavenner: As a result of this conversation that he had with you, did you attend meetings of the Communist Party at his home?

Mr. Campas: Yes, sir.

Mr. Tavenner: What was the principal objective of that group of the Communist Party with which you reaffiliated?

Mr. Campas: Well, I was affiliated with them a very short while and, as far as I can recall, the primary work or subject matter that they discussed and worked on was the American Labor Party.

Mr. Tavenner: Will you describe that more fully, please?

Mr. Campas: Well, the membership of the Communist Party in Troy at that time was very small, and also the membership of the American Labor Party, but this Sidman was a vice chairman of the American Labor Party and many issues that were actually Communist Party issues were given out to the press in the name of the American Labor Party.

Mr. Tavenner: Let me interrupt you a moment. The committee is not concerned with political activities of any group as such. We do not want to enter into the field of political discussions of any group. However, we are anxious to know

to what extent any group is being influenced by the Communist Party, and by its members. So, in testifying regarding this matter, I would like for you to keep that in mind and remember that what we are interested in are the activities and the work of the Communists within any group, including this particular group that we are talking about.

Mr. Campas: Well, the only thing more I can add to that is that the Communists within this group actually ran the group.

Mr. Tavenner: How was that accomplished?

Mr. Kearney: Within what group?

Mr. Campas: The American Labor Party.

That was accomplished because of one particular person I've named. He was the speaker for the American Labor Party by virtue of the fact he was vice chairman of the Rensselaer County committee of the party, American Labor Party, and he was a Communist. Therefore, all information, statements that went out, he issued.

Mr. Tavenner: Well, did the other members of the Communist Party take any active part as Communists in planning the work of the American Labor Party in that area?

Mr. Campas: Only in the form of discussions and planning what was to be done on the occasional meetings that the American Labor Party held, which were not too frequent; but whenever there was a meeting of the American Labor Party the Communists, of course, planned that, just like they plan anything else in any other organization. They meet beforehand; they plan what they are going to do, and they go in there and try to put it over.

[fol. 119e] Also, in the question of primaries, they tried and they were successful in getting Communists to be elected as members of the county committee or any other offices of the American Labor Party that they could.

Mr. Tavenner: Will you tell the committee who composed this group of the Communist Party in Troy, of which you were a member?

Mr. Campas: Well, in addition to the person I have named, there was Frieda Schwenkmyer—S-c-h-w-e-n-k-m-y-e-r.

Mr. Tavenner: Just a moment. Will you give any fur-

ther identifying information you can regarding her and her activities?

Mr. Campas: She was an organizer for the Amalgamated Clothing Workers' Union. Later she was removed from that position by the union. As to her present whereabouts, I have no knowledge.

Another person was George LaFortune.

Mr. Tavenner: Will you give further identifying information regarding him?

Mr. Campas: I have no other information, except that he lived in Troy, or nearby, and I don't recall what type of work he did at that time, and I haven't seen him since 1948.

Mr. Tavenner: Were there others?

Mr. Campas: Yes; there was Donald Hatchigan. The only thing I remember about him—I understood he was working for some cleaning and dyeing plant. That was his trade. Whether he was working at that trade at that time, I can't recollect.

Mr. Tavenner: Can you recall the names of any other persons?

Mr. Campas: There's two other persons—one named Harold Klein—K-l-e-i-n.

At that time, when I met him, he was the Communist Party organizer for the capital district and he came over from Schenectady at times when this group met in Troy.

Mr. Kearney: Do you know where Mr. Klein is now?

Mr. Campas: No; I have no knowledge of his whereabouts. I haven't seen him since 1948. I shall bring out at a later hour how I met him then.

One other person—Si Fialkoff. I don't know the exact spelling of the name, but the nearest I can make out is F-i-a-l-k-o-f-f. He was also an organizer of some kind in the Communist Party who was usually with Klein.

Mr. Tavenner: Did the plan of this group of the Communist Party include the encouragement of any of its members to take an active part in the American Labor Party?

Mr. Campas: Yes; they were interested for us to take part, which they did. They were all registered in the American Labor Party and they participated in the meetings of the American Labor Party whenever they were held, and

they also participated in the primaries because, as I stated previously, this American Labor Party had a small membership and, with a small group voting in the primaries, they were able to capture control of it.

Mr. Tavenner: Were members of this group encouraged to seek political office through the medium of the American Labor Party?

Mr. Campas: Yes, sir. If I recall correctly, Sidman and several others did run for office, some office, under the label of the American Labor Party.

[fol. 119f] Mr. Tavenner: But the point I am asking is whether or not this group of the Communist Party sought this activity by its members?

Mr. Campas: Oh, the only answer I can say is "Yes, sir," without—I can't go into too many details because, as I said, I was there only for a short while at that time and I don't know what they have done since then.

Mr. Tavenner: Did you become active in the American Labor Party?

Mr. Campas: Only in a limited way. I mean I attended some of their meetings and I was on some committee or other of the American Labor Party, but after that I dropped out.

Mr. Tavenner: While a member of this Communist Party group, were you a candidate for political office?

Mr. Campas: Not that I can recall. If it was, I might have been in the fall elections of 1937, and I can't recall at this moment.

Mr. Tavenner: Will you describe to the committee any further activities that you are acquainted with of this Communist Party group in furthering its interests which you have described existed in the American Labor Party?

Mr. Campas: No; the only activity that I can recollect is the American Labor Party activity.

Mr. Tavenner: Can you tell us any other way in which the Communist Party group worked in order to increase their position and their standing in the American Labor Party?

Mr. Campas: Well, they tried to influence as many people as they could within the American Labor Party, such as

enrollees to vote for their candidates; but any other activity, I have no knowledge. I can't recollect at the moment.

Mr. Tavenner: Did the Communist Party itself take any part in the arrangement of meetings and the bringing in of speakers under the auspices of the American Labor Party, for instance?

Mr. Campas: Well, as far as I know, there was only one such meeting, which was held some time in the first half of 1948, which was supposed to be a meeting of the American Labor Party at which Rockwell Kent, the artist, came to speak in behalf of the candidacy of Wallace for President.

That's about the only meeting, open meeting, that I can remember.

Mr. Tavenner: Well, I just wanted to know whether or not the Communist Party as such played any part in the arrangements for the meeting or brought it about in any way.

Mr. Campas: Well, I would say they did greatly contribute toward bringing the meeting about, and having this meeting, if not officially as a Communist Party group, but the individuals who were Communists did the work.

The group in Troy, the Communist Party group, was never known as such. No one identified himself as a Communist in Troy at that time.

Mr. Tavenner: How long did you remain a member of the Communist Party in Troy?

Mr. Campas: As far as I can remember, approximately 10 months.

Mr. Tavenner: Why was it that your membership was limited to such a short period of time?

Mr. Campas: Because I was expelled for failing to follow the dictates and the wishes of the Communist Party.

[fol. 119g] Mr. Tavenner: Will you tell the committee about that, please?

Mr. Campas: Well, this meeting I spoke of previously—the Wallace-for-President meeting, at which Rockwell Kent was the speaker, was advertised in the newspapers and placing my name as one of the sponsors of the meeting. I did not give those people the right to put my name in the paper.

Mr. Tavenner: Who do you mean by "those people"?

Mr. Campas: The Communists, because they were the ones who gave the names, as I later found out from speaking to the reporter that wrote the story, and he informed me he had gotten the story from Mr. Sidman.

But that particular incident was only an occasion in my mind which I chose to break with the Communist Party, because I no longer believed in it and had no sympathy with them whatsoever, and I chose that particular time to do so; and by stating publicly I was not a supporter of this meeting—this was an American Labor Party meeting I am speaking of now—I stated I was not a supporter of this meeting, and I was expelled by the Communist Party.

But, as I said, that particular incident was only the occasion to do so.

(At this point Mr. Campas conferred with Mr. Jones.)

Mr. Tavenner: Before proceeding, I would like you to explain a little more clearly just what it was that brought about your expulsion.

Mr. Campas: Well, I had not attended meetings for some time prior to that incident—that is, meetings of the Communist Party—and I had some differences of opinion with the organizer of the Communist Party, Klein, and this other person, Fialkoff. I realized at that time the program and the doctrine and the theory in the Communist Party was not for the best interests of what I thought was right and good for labor and, being a union officer first, I realized that what they advocated was not for the best interests of labor and they were not the answer to what labor should have or what labor should get. They were only using labor to advance their own interests, their political interests, and at all times they were being apologists for the Soviet Union, of which I have no interest in; and I also found, contrary to what was preached by the Communist Party before that only Communists were the most active people in the union and they were the only ones that would do the work. I found that to be the contrary; I found people who were sincere; they were honest about their work; they were interested only in the advancement of unionism without any political implica-

tions whatsoever, and a union that was not controlled by any political group was a good union.

Now, my original reason for affiliating again with the Communist Party in 1947 was because primarily I was interested in the American Labor Party as a lobby for trade-union principles, such as minimum wages, better laws, and things like that; but then I found out that it was nothing else but a front—at least the group in Troy was nothing but a front—for the Communist Party, and at that time I discussed it with Klein and Fialkoff. I told them what I thought, and I told them I did not want any part of it, and some time later I received a typewritten piece of paper in an envelope, which was left at my office by some person unknown, advising me that, inasmuch as I had not followed the party line, trial was held and I was expelled.

Mr. Tavenner: Were you permitted to attend your own trial?

Mr. Campas: I was invited to, but I didn't attend it.

[fol. 119h] (Representative Gordon H. Scherer returned to the hearing room at this point.)

Mr. Tavenner: Since that time, have you taken part in any Communist activities of any character?

Mr. Campas: No, sir; on the contrary, I've had occasion to offer my cooperation to other Federal agencies in trying to eliminate and eradicate the Communist Party and communism.

Mr. Tavenner: And you expressed the desire to appear voluntarily before this committee to answer such questions as it proposed to ask you?

Mr. Campas: Yes, sir.

Mr. Tavenner: Therefore, you are telling this committee the breaking of your Communist Party ties are final and complete?

Mr. Campas: Yes, sir.

Mr. Tavenner: Mr. Chairman, the investigation by the committee shows that the correct spelling of a name just given by the witness is F-i-a-l-k-o-f-f.

I thought I should make that correction.

Mr. Campas: Well, I never saw his name in writing. That is why I didn't remember it.

Mr. Tavenner: I have no further questions, Mr. Chairman.

Mr. Kearney: I want to express to the witness the thanks of the committee for coming here and testifying as he has this morning. He has certainly set an example to all who have been formerly connected with the Communist Party in exposing the ramifications of the party.

You deserve the thanks of the committee and of the American people.

Mr. Campas: Thank you, sir.

Mr. Kearney: The committee will recess until 1:30.

(Whereupon, at 12:15 p. m., the hearing was recessed, to reconvene at 1:30 p. m., of the same day.)

AFTERNOON SESSION

(At the hour of 1:38 p. m., of the same day, the hearing reconvened, the following committee members being present: Representatives Bernard W. Kearney (chairman of the subcommittee) and Gordon H. Scherer.)

Mr. Kearney: The committee will be in order.

Do you have a witness, Mr. Counsel?

Mr. Tavenner: Yes, sir.

Mr. Jack Davis.

Will you come forward, please?

Mr. Kearney: Mr. Davis, will you stand and hold up your right hand?

Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Davis: I do.

Mr. Jones: Mr. Chairman, I understand my client has the right to request that his testimony be not broadcast, and we so request that.

Mr. Kearney: On the request of counsel and the witness, the testimony will not be broadcast.

Mr. Jones: Thank you.

[fol. 119i]

TESTIMONY OF JACK DAVIS, ACCOMPANIED BY HIS COUNSEL,
ABBOTT H. JONES, JR.

Mr. Tavenner: What is your name, please, sir?

Mr. Davis: Jack Davis.

Mr. Tavenner: Are you accompanied by counsel?

Mr. Davis: Yes, sir.

Mr. Tavenner: Will counsel please identify himself for the record?

Mr. Jones: Mr. Abbott H. Jones, Jr., 5 Broadway, Troy, N. Y.

Mr. Tavenner: When and where were you born, Mr. Davis?

Mr. Davis: I was born in Hartford, Conn., November 26, 1907.

Mr. Tavenner: What is your present occupation?

Mr. Davis: I am business agent for the Hotel and Restaurant Employees' Union, Local 471, Albany.

Mr. Tavenner: Where do you reside?

Mr. Davis: 92 Hudson Avenue, Albany.

Mr. Kearney: I am going to ask the photographers to take their pictures now so that the witness will not be disturbed during his testimony.

Proceed.

Mr. Tavenner: Will you tell the committee, please, what your formal educational training has been?

Mr. Davis: I was educated in the public schools of Hartford, Conn.

Mr. Tavenner: Will you tell the committee, please, what your record of employment has been since, say, 1935?

Mr. Davis: Well, from 1935 to early 1936 I was employed as a waiter in hotels and restaurants around the city of Albany.

Mr. Tavenner: And what was your next employment?

Mr. Davis: In 1936, in March 1936, I was elected business agent for the Hotel and Restaurant Employees' Union, Local 471.

Mr. Tavenner: How long were you business agent of that local?

Mr. Davis: I was business agent of that local union until about May 1940.

Mr. Tavenner: Now, let me interrogate you first regarding certain incidents up to that date, May 1940.

When you were a waiter, working in Albany, between 1935 and 1936, were you a member of the Communist Party?

Mr. Davis: No, sir.

Mr. Tavenner: I understand from your testimony that you became business agent for your local in March 1936.

Mr. Davis: That's right, sir.

Mr. Tavenner: Were you a member of the Communist Party at that time?

Mr. Davis: No, sir.

Mr. Tavenner: Did you later become a member of the Communist Party?

Mr. Davis: Yes, sir.

Mr. Tavenner: Approximately when did you become a member?

Mr. Davis: Well, as I recall, it was in the early summer of 1936.

Mr. Tavenner: Are you now a member of the Communist Party?

Mr. Davis: No, sir.

[fol. 119j] Mr. Tavenner: I will ask you more in detail later as to the circumstances under which you left the Communist Party, but for the present tell us approximately the time when you broke with the Communist Party.

Mr. Davis: Well, as far as I can recall, it was about 1948.

Mr. Tavenner: Will you tell the committee, please, the circumstances under which you became a member of the Communist Party in 1936?

Mr. Davis: Well, at the time, in 1936, when I became business agent of the union, I didn't have any experience in the particular job and I needed a lot of help and a fellow came along who, after I became business agent, joined the union and started to help out, did a lot of leg work, and made good suggestions, and generally became very active in the union; and after a while this fellow

identified himself—well, this man is deceased; I don't know whether—

Mr. Tavenner: Well, I think in light of his activity and his prominence at that time we should ask you to give his name.

And, incidentally, if in the course of your testimony I ask you for other names and if they are of persons deceased, I would rather for you not to mention them unless they had some very important part to play in the leadership of the party.

Now, will you state, please, the circumstances under which you became a member of the Communist Party in 1936?

Mr. Davis: The man's name is Gus Cakoulis.

Mr. Tavenner: Will you spell the last name?

Mr. Davis: C-a-k-o-u-l-i-s.

This man became very active in the union, did a lot of work and made suggestions, and in a short time he identified himself as a Communist to me, as a member of the Communist Party, and I didn't know much about it, only what I read in the newspapers; and he began to discuss the question of the Communist Party and communism with me at great length, and in a short time he asked me to join the party, and later he made a luncheon appointment for me with a woman, who I understood was from Schenectady, by the name of Sadie Doran.

And we had lunch together and she was introduced to me as the Communist Party organizer for the capital district area, and we had quite a talk at lunch and we spent most of the afternoon discussing the question of my joining the Communist Party; and I asked a lot of questions, and both of these people explained to me the benefits and the advantages that I would have in joining the party, particularly as how I had very little experience in the trade-union movement and that there were many people in the party, in the Communist Party, who worked with the Communist Party, who had all this experience and that they were in a position to advise and to assist me in my work.

So, as a result of that, I joined the Communist Party at

the time; but I want to say I don't recall signing any card or receiving any card—or I believe at the time I passed a 50-cent piece over. That was the initiation fee, and that's about the story as far as the—

Mr. Tavenner: Well, do you recall whether a name was given to be recorded as your party name?

Mr. Davis: Yes; after the question was settled about my joining the party, this Doran woman brought the question up about joining the party under an assumed name, and she thought it would be best if I did that, and she suggested that I pick a name, just any place, and as I recall it I smoked a certain brand of cigarettes at the time, and I just picked the name off the pack of cigarettes and the name happened to be Williamson, and the name was put down as Jack Williamson.

Mr. Tavenner: What reason was given by the organizer as to why it would be better or preferable for you to be known in the party under a name different from your own?

Mr. Davis: Well, up until the time that she mentioned the question of an assumed name, it hadn't entered my mind that it was necessary to do that; but she said in holding a key position or an important position in the union that it would be better if I was not identified with the Communist Party. So, I went along with that.

(Representative Gordon H. Scherer left the hearing room at this point.)

Mr. Tavenner: Then that was done as a matter of security?

Mr. Davis: That's right. That's correct, sir.

Mr. Tavenner: Will you tell the committee, please, whether this was the same group of the Communist Party which the witness previous to you, Mr. Campas, described as having been organized within the membership of your local?

Mr. Davis: Well, not at the particular time I'm talking about now, sir. This happened later. At the time I joined the Communist Party there was no group within the union.

I evidently—it seems I was the first recruit—

Mr. Tavenner: Then, if I understand it, it was the purpose of this group to get into your union?

Mr. Davis: Well, that is correct; yes, sir.

Mr. Tavenner: Now, would you tell the committee briefly how that was accomplished?

Mr. Davis: The understanding was that I was not to take any active or open position as far as being a Communist or being active in the Communist Party, but that this man Cakoulis was to do all the work, the recruiting and anything else that was necessary in that line.

Mr. Tavenner: Prior to your group endeavoring to take over your union, will you tell me to what group of the Communist Party you were assigned? In other words, where were you assigned when you first became a member?

Mr. Davis: At first I was assigned to a group in Schenectady which was sort of a miscellaneous group. It was made up of various types of people who worked in shops, various lines of work, and the only two people at the time were myself and Gus Cakoulis who were members, that is, of this particular union.

Mr. Tavenner: How long did you remain affiliated with that group?

Mr. Davis: Well, that was—I would say—as I recall it, about a little over a year or so that I was affiliated with the Schenectady group.

Mr. Tavenner: Was your attendance at meetings regular during that period?

Mr. Davis: No; I only attended a very few meetings because I was very busy at my regular job, and meetings were held at times I wasn't able to attend, but I did attend several meetings during that period in Schenectady.

[fol. 121] Mr. Tavenner: Will you explain how the organization within the Communist Party was first established here in Albany?

Mr. Davis: Well, it came about as a result of the new organizer being assigned to the capital district area. A man by the name of Max Gordon was sent in from New York as the new organizer for the Communist Party and he then set the apparatus up here at Albany instead of Schenectady as it had been previously; and by that time within the union itself there were several people who had

been recruited into the Communist Party, so that at that time what was called a food workers' branch of the Communist Party was set up within the union.

Mr. Tavenner: Was that branch the food workers' branch of your union, that is the Communist Party branch of your union, successful in gaining leadership in your union and control of it?

Mr. Davis: I would say it definitely was successful. It was very successful in doing that.

Mr. Tavenner: During the period of time that you were a member of this group in Albany—that is, between 1936 and 1940—did you have occasion to attend what were called section meetings of the party?

Mr. Davis: As far as I can recall, I attended one section meeting of the party during the period of 3 or 4 years.

Mr. Tavenner: Did you hear the testimony this morning of Mr. Nick Campas?

Mr. Davis: I heard it.

Mr. Tavenner: He described having attended a section meeting in Albany. Did you attend the same meeting?

Mr. Davis: Yes; I did.

Mr. Tavenner: Now, will you tell us what you can recall about the purposes of that meeting?

Mr. Davis: Well, it was also called the section convention. It was held prior to the time that a national convention was scheduled to be held and, as I understood it, the section convention was held and delegates were to be elected at that convention to a district convention, which was made up of the State, and then delegates from there were to be elected to the national convention.

The purpose of the section convention was to elect these delegates and to get reports of the various activities of the party from the various branches that were connected with the section.

(Representative Gordon H. Scherer returned to the hearing room at this point.)

Mr. Tavenner: Did you, prior to that time, know of the existence of other branches in the Communist Party in this area besides the one of which you were a member?

Mr. Davis: Well, I had heard on a number of occasions there were several branches of the party.

Mr. Tavenner: Had you attended the meetings of any of them?

Mr. Davis: No; I hadn't.

Mr. Tavenner: What terms were used to describe these other branches?

Mr. Davis: Well, there was a professional branch; there was a State employees' branch; there was a neighborhood branch—I can't remember the name of the neighborhood, and there were others, but I can't recall them.

[fol. 122] Mr. Tavenner: And, of course, your own branch—

Mr. Davis: That's right; the food workers' branch.

Mr. Tavenner: At this section meeting, did you find there were present persons representing these various branches?

Mr. Davis: I did, sir.

Mr. Tavenner: Will you give the committee, please, the names of all the persons you can recall who were present at this section meeting?

Mr. Davis: Well, I would like to explain at this section convention delegates were actually elected or sent from the various branches. In addition to the delegates who were sent and who came to the section convention, there were also spectators; but all the spectators, of course, were members of the Communist Party or they wouldn't be allowed to come into the convention, and there were delegates from the various branches and various—

Mr. Tavenner: Were you a delegate from your group?

Mr. Davis: As far as I can remember; no. I was present, but I'm pretty sure I was a spectator.

Mr. Tavenner: Do you recall who the delegates from your group were?

Mr. Davis: Well, I can recall that Gus Cakoulis was a delegate and that each branch had someone to report on its activities, and I can recall in the case of the food workers branch that Gus Cakoulis made the report.

I can also recall that there was one person, a woman, who made the main report of the convention; and, of course, the party organizer, Max Gordon, reported for

the professional branch because, as it was explained, for security reasons, the professional branch was not able or should not be allowed to expose themselves, so that the party organizer made the report for the professional branch.

Mr. Tavenner: That brings to mind the testimony of Harold Ashe in our hearings in California, when he described that the purpose of having professional cells or groups of the Communist Party was to keep the membership of those groups highly secret, even secret from other rank-and-file members of the Communist Party.

(Representative Gordon H. Scherer left the hearing room at this point.)

In keeping with that idea, I understand that Max Gordon on this occasion even made the report for the professional group rather than expose the members of the professional group as such.

Mr. Davis: Yes.

Mr. Tavenner: Did you at any time ascertain the identity—that is, of your own personal knowledge—of the membership of the professional group?

Mr. Davis: No, sir; except that it had been discussed among the party members that the group was—

Mr. Tavenner: Now, just a moment. I don't want you to state what somebody else told you about it.

Mr. Davis: I see.

As far as my own knowledge is concerned, I never knew or never met any member of the professional branch.

Mr. Tavenner: Will you proceed, please, with a description of what occurred at this section conference?

Mr. Davis: Well, the main report was made by a woman, whose name I knew as Amalia Pesko, and then there were [fol. 123] reports from the party organizer and reports from the food branch; and I can't recall any of the other reports, but there were a number of other branches which reported.

Mr. Tavenner: Can you identify for the committee persons who were in attendance at that meeting?

Mr. Davis: Yes, sir.

Mr. Tavenner: I wish you would do so, please.

Mr. Davis: James King.

Mr. Tavenner: In identifying these individuals; I wish you would tell the committee other facts which would help in the identification of the individuals.

Mr. Davis: Well; I knew James King at the time to be a State employee and connected with the State, County, and Municipal Workers Union, which was the union that was trying to organize the State employees.

George LaFortune. He was working in some plant in the area. I can't recall exactly where, but it was somewhere in Troy or Watervliet.

Frieda Schwenkmyer. She was an organizer for the Amalgamated Clothing Workers' Union.

John Wright, who I knew as a State employee at that time.

Mr. Kearney: Do you know in what department John Wright was employed by the State of New York?

Mr. Davis: No; I can't recall that I knew that. I knew he was a State employee. I never inquired as to what the department was.

David Rappaport, who I knew as a State employee.

Herbert Feay—F-e-a-y—who I understood at the time was connected with some part of the insurance setup in the State.

Max Gordon, who was the party organizer.

Clarence Carr, who was an officer of the Leather Workers' Union in Gloversville.

Nick Campas.

Rena Dodd, who I understood was an employee of the State.

Betty Laros, who I understood was an employee of the State.

Donald Hatchigan, who, as far as I can recall, ran a dry-cleaning business in Troy.

Charles Dorenz, who was employed as a painter here in the city of Albany.

(Representative Gordon H. Scherer returned to the hearing room at this point.)

Mr. Tavenner: Do you recall who were elected at that convention to be delegates at the State convention of the Communist Party?

Mr. Davis: The only one that I can recall who was elected at the time was Max Gordon, the party organizer. I'm sure there were others, but I don't recall their names.

Mr. Tavenner: Approximately what was the date of this meeting?

Mr. Davis: Well, it's hard to place it exactly, but I would say, as far as I can recall, it was sometime in 1938.

Mr. Tavenner: Were you regular in attendance at the Communist Party meetings held by your own group or club?

Mr. Davis: No; I wasn't. I only attended them occasionally.

Mr. Tavenner: Why was that?

Mr. Davis: Well, first, for what was called security reasons, on many occasions some of the members brought people there for the first time and my own feeling was [fol. 124] it would be best if I didn't attend all the meetings—only meetings where it was understood I was coming to—and, further, in many cases, I was not able to come to meetings. They were generally held in the afternoon because that was the time the people who work in this particular line of work were free to come to a meeting and that didn't always fit into my schedule.

Mr. Tavenner: Were you ever chosen to attend a State or national convention of your union?

Mr. Davis: I was a delegate to three national conventions of my union.

Mr. Tavenner: Where were those conventions held and what were the dates?

Mr. Davis: Well, the first convention was the national convention held in Rochester, N. Y., in 1936, and I attended the next national convention which was in San Francisco, in 1938, and the convention, the national convention, that was held in Cincinnati in 1941.

Mr. Tavenner: Will you tell the committee, please, what the practice was at those conventions within the Communist Party groups that were members or delegates to the conventions?

Mr. Davis: Well, I would like to just go back a little bit. At the time I joined the Communist Party one of the things that was impressed upon me was that there was a national group of people, members of the Communist Party, who were in the same line of work and in the same field, union field, and that these people had meetings. They were all oldtimers, as it was put, and well experienced—and they occasionally had meetings called national fraction meetings, and that was one of the things that I would get a lot of help from there. So, I did attend some of these national fraction meetings, and during the 1936 convention particularly, in Rochester, and prior to the San Francisco convention, these meetings were held and I attended some of those meetings.

Mr. Tavenner: Now, these fraction meetings were meetings of members of your union who were members of the Communist Party?

Mr. Davis: That's on the national level.

Mr. Tavenner: And that meant from widespread areas of the United States, did it not?

Mr. Davis: That's right.

Mr. Tavenner: What was the general purpose of these fraction meetings and caucus meetings?

Mr. Davis: Well, it was a sort of steering committee to try to steer the convention, and the meetings were taken up first with reports from the various members, reports from what the situation was in their own particular areas, local areas, and after that, of course, the meetings went into the question of resolutions to be presented and pushed at the convention, the type of resolutions that were to be opposed, particularly resolutions which would set up a bar to Communist Party membership in the union, or Communists holding office, or any resolutions of that kind. Those were to be opposed, and generally resolutions that dealt with international affairs or trade-union affairs, and also the meetings took up the question of the election of officers at these conventions and who the Communists should support and who they should oppose, and so on.

Mr. Tavenner: That was particularly applicable to the caucuses at your conventions?

[fol. 125] Mr. Davis: Yes.

Mr. Tavenner: In your fraction meetings which were held did you, as members of the fraction, obtain suggestions and directions from the Communist Party leadership as to the Communist Party line which was to be sponsored and taken back to your respective groups?

Mr. Davis: To the locals?

Mr. Tavenner: Local groups.

Mr. Davis: Oh, yes, sir; sure.

Mr. Tavenner: In other words, these fraction meetings constituted one source of Communist Party direction, of the business of the Communist Party in the local unions?

Mr. Davis: Yes, sir.

Mr. Tavenner: Will you tell the committee, please, the names of all the persons that you can recall with whom you met in these fraction meetings—and I think, however, you should tell us where these fraction meetings met and the dates as nearly as you can?

Mr. Davis: Well, actually, sir, I can't remember the dates. It was during the period of 1936 to 1940, and most of these meetings were held in New York, and, of course, in Rochester. During the time of the convention it was held in Rochester, and I can recall going to one meeting in Cleveland, Ohio.

Mr. Tavenner: Are you able to differentiate between these meetings as to which persons you met at one meeting and which at another?

Mr. Davis: No, sir; that I'm sure would be impossible.

Mr. Tavenner: Well, will you proceed to state to the committee the names of those persons whom you are certain you met and with whom you sat in these fraction meetings?

Mr. Davis: Yes, sir.

Harry Rich.

Mr. Tavenner: And will you tell us as nearly as you can your recollection of the individual so as to be able to more definitely identify him.

Mr. Davis: At the time he was an officer in the cooks' union in New York City.

Mike Obernuer. During this period he was an officer in several different locals in New York City.

William Albertson. He was an officer in the waiters' union, local 16, in New York City.

Ishmael Flory. He was a leader in the dining-car division of the national union.

Jay Rubin. He was an officer in the hotel and club employees' union in New York City, and I understand that Mr. Rubin has disassociated himself from the Communist Party since that time.

Mr. Tavenner: Do you know what position he holds in the union at this time?

Mr. Davis: He still holds the same position in the same union.

And Gertrude Lane, who also held a position during that period in the same union, local 6, and who I understand today has disassociated herself from the Communist Party.

The same is true of David Herman, who today holds a position of leadership in that union, local 6 of the hotel and restaurant employees; and I understand, sir, that he has disassociated himself from the Communist Party.

[fol. 126] And a man by the name of Costas Alexiou, whom I can't place for sure. He was a leader in one of the local unions around the country.

Carl Hacker, who today is an international organizer for the National Union of the Hotel and Restaurant Employees.

Willie Schulz. He was an officer of a local union in what was called Yorkville, New York City.

Paul O'Connor, who was an officer in what was called the Miscellaneous Workers' Union in Boston. That's in the same industry.

Mr. Tavenner: Did you have occasion to meet him at any later period?

Mr. Davis: Later I met Mr. O'Connor as a UE organizer in New England.

James McNamara, who in 1938 became an international vice president of the union, at the 1938 convention in San Francisco. He was elected an international vice president.

Mr. Tavenner: Of what union?

Mr. Davis: Of the Hotel and Restaurant Employees' National Union.

Mr. Scherer: Do you know what James McNamara is doing now?

Mr. Davis: No, sir; I can't recall ever seeing him since 1941.

Mr. Scherer: Did you give us a middle initial on that name?

Mr. Davis: I'm pretty sure it's B. James B. McNamara.

Mr. Scherer: He was a member of the Communist Party?

Mr. Davis: I met with him, sir, on at least two occasions. I met with him in the national fraction of the Communist Party, in the union.

Mr. Scherer: Nobody was present except members of the Communist Party at the fraction meetings which you describe?

Mr. Davis: That's right, sir.

Mr. Scherer: How old a man was he at the time?

Mr. Davis: He was a very young man at the time—very young man; very young fellow.

Mr. Scherer: In 1938, did you say that was?

Mr. Davis: Thirty-eight.

Mr. Scherer: You don't know whether he is a member of the Communist Party today?

Mr. Davis: No, sir.

Mr. Scherer: You don't know how long he remained in the Communist Party after you knew him to be a member of the Communist Party?

Mr. Davis: No, sir.

(Representative Bernard W. Kearney left the hearing room at this point.)

Mr. Scherer: That is all I have, Mr. Counsel.

Mr. Tavenner: Where were these fraction meetings held at which you identified him as a member?

Mr. Davis: Well, you mean the actual place?

Mr. Tavenner: Yes. Can you be certain of that?

Mr. Davis: Sometimes they were in a hotel room.

Mr. Tavenner: No; I meant in what city.

Mr. Davis: Well, I'm pretty sure I can place him at one meeting in New York City.

Mr. Scherer: Do you know what city he was from?

[fol. 127] Mr. Davis: Washington, D. C. He was an officer in the local union in that city, in Washington, D. C. He held a position of leadership in that local union.

Mr. Scherer: When was the last time you heard of Mr. McNamara?

Mr. Davis: The last time I saw Mr. McNamara was in 1941 at the Cincinnati convention when he lost out as an international vice president.

Mr. Tavenner: Now, I want to check as to the location of these various conventions. You stated one convention was Rochester. That was the one in 1936, and you said there was one in San Francisco in 1938. And did you say there was one in Cincinnati in 1941?

Mr. Davis: Yes.

Mr. Tavenner: Was it at the San Francisco convention or at the Cincinnati convention that Mr. McNamara lost out?

Mr. Davis: In 1941 at the Cincinnati convention.

Mr. Tavenner: All right, sir; will you proceed?

Mr. Davis: Manning Johnson.

Salvatore Gentilli.

Mr. Tavenner: Can you give us identifying information regarding him?

Mr. Davis: Salvatore Gentilli. I'm pretty sure he was an officer in one of the writer's unions in New York City.

Helen Caren. She was from Toronto, Canada, and was an officer or leader in the local union in that city, Toronto, Canada.

And Charles Oberkirch, who was an officer in a local union in Brooklyn, N. Y.

Mr. Tavenner: Are you able to identify any other persons who attended these caucus meetings?

Mr. Davis: I believe I left Nick Campas out. He was there at one of the meetings at least that I attended, but I can't recall any others.

Mr. Tavenner: Our investigation has disclosed that at one time while you were a member of the party, between 1936 and 1940, that some charge was preferred against you and you were arrested. Did that have anything to do with Communist Party activities on your part?

Mr. Davis: Well, it did in this way, sir: It was in 1937 we had annual elections in our union, and in April 1937, to be exact, we had our annual election, and I was running for reelection as business agent.

(Representative Bernard W. Kearney returned to the hearing room at this point.)

Mr. Davis: On the afternoon before the day of the election I was arrested and charged with assault, and the next morning the charge was changed to attempted robbery, and I was refused bail and I remained in jail all of the day, all of the afternoon of the election and election night, and the next morning I got out of jail on a writ of habeas corpus; but during the time I was in jail the election went on and I was reelected as business agent; later on I was cleared and vindicated of all the charges that were made against me by the courts and—however, in the meantime, when this event took place, the Communist Party took advantage of the situation.

Mr. Tavenner: What was the origin of this charge? What was the alleged basis for it?

(Representative Bernard W. Kearney left the hearing room at this point.)

[fol. 128] Mr. Davis: It started from—in my opinion, it was instigated by some employees who were unhappy.

(Representative Bernard W. Kearney returned to the hearing room at this point.)

Mr. Tavenner: I am not asking you as to your opinion who did it, but what were the facts around which this charge was made?

Mr. Davis: Well, there was a man who was a minor officer of the union who came to the office of the union to obtain a list of members, and it was my duty as the financial secretary to protect that list of members and I refused to allow him to have the list, and he grabbed the list and started to run with it. So, I stopped him and took the list away, and then, about an hour later, I was arrested for assault; and later the court said that in protecting the list of the union I was doing my duty, and the charges were thrown out.

Mr. Tavenner: You say the Communist Party made a great deal to do over the incident. What do you mean by that?

Mr. Davis: Well, at the time I was put in jail and the next day when I got out, the newspapers, the Communist Party,

not directly but indirectly, through connections that they had in other unions, in the area, and other types of organizations, began to issue statements, write letters, public letters, to the Governor and the city officials, and send telegrams to Washington, and everything else of that type, in order to create a big furor over the situation. Of course, it was a very serious situation to me, personally, and it made me feel that some people were trying to help me.

Mr. Tavenner: In other words, that incident was exploited by the Communists?

Mr. Davis: To the nth degree; yes, sir.

Mr. Tavenner: Over how wide an area?

Mr. Davis: Well, there were letters and telegrams that came from Gloversville and Amsterdam and Schenectady. Most of them came from those places.

Mr. Tavenner: Did the incident result in any strengthening of the Communist Party in this area?

Mr. Davis: I would say definitely it strengthened the Communist Party.

Mr. Tavenner: How long did you continue as a member of this group of the Communist Party?

Mr. Davis: Until 1940, when I ran for reelection in 1940. I was defeated as a candidate for business agent.

Mr. Tavenner: And the Communist Party slate was defeated in the election at that time?

Mr. Davis: That's right, sir.

Mr. Tavenner: And what effect did that have upon this organized group of Communists within your union?

Mr. Davis: Well, this group disintegrated. It fell apart and all the members drifted away, as far as I knew, and I, myself, drifted away for some time after that.

Mr. Tavenner: Where did you go from Albany?

Mr. Davis: Well, I remained in Albany until 1942, except for a short time previous to that while I lived in Albany, in late 1941, I went to work for the United Electrical Radio and Machine Workers of America, which was a CIO union at the time, as a national organizer, national field organizer.

[fol. 129] Mr. Tavenner: How long did you continue as an organizer for UE?

Mr. Davis: Well, I worked for UE, as I said, for a period

of about 3 months in 1941, and left and I came back permanently about June 1942.

Mr. Tavenner: And how long did you remain?

Mr. Davis: I remained as an organizer for the UE until about May 1950.

Mr. Tavenner: Mr. Chariman, the staff prefers not to develop testimony through this witness in public session regarding his activities within the UE as an organizer over the period he indicated at this time. We would like to take that testimony in closed session, with a view to making it public or making it part of a hearing in some future date.

Mr. Kearney: The request is granted.

Proceed.

Mr. Tavenner: Now, for the reasons I mentioned, I am not going to ask you questions regarding your experience in the Communist Party while you were within UE, other than to ask you whether you did again affiliate with the Communist Party while you were an organizer for UE.

Mr. Davis: In 1942 I went to the city of Syracuse, N. Y., to work as an organizer, national field organizer, for the UE, and some time after that I reaffiliated with the Communist Party.

Mr. Tavenner: Now, will you tell the committee, please, the circumstances under which you left the Communist Party?

And I realize in asking you to answer that question you may have to make some reference to the UE, but I do not want to go into details about your experience as an organizer for UE.

Mr. Davis: Well, I began to drift away from the party in 1947, and mainly at that time—at the time I was working in New England, particularly around the western Massachusetts area, Springfield, Holyoke, and so on—and there was some serious unemployment began to develop in that area, and I attended the meeting of the Communist Party and the question was brought up, and some of the party leaders were all excited about it, in the sense that it seemed to me very welcomed what they said was a depression. We were going to have a depression and it seemed to me at the time they welcomed it. They went into the term of mass

recruiting. They said, "This is our opportunity. This may be an opportunity to recruit hundreds—yes; thousands—of people into the party" because of the unemployment that was developing in New England, and it seems to them that they were going to have a depression and it was fine because this was a real opportunity for the party to begin to do this mass recruiting.

Well, that was when I really began to get concerned about the question of communism because I went through the first depression and I was a young man: I wasn't able to find work; I had a hard time, and I knew what a depression was, and anybody who started to welcome another depression—well, I couldn't see that.

Later, when a number of other things developed, the beginning of the cold war, and particularly during the war, I saw a different picture. I was working. I felt I was doing a real job for the war effort in my work with plants that were making materials for the war, and it was my job to settle the hundreds of grievances that came up in order to [fol. 130] prevent strikes taking place during this time; and I believed sincerely that after the war we were really going to have a good situation in the world, that there was going to be peace, and we were going to get along with everybody and everybody was going to get along with us. I really believed that, but I began to see that wasn't true and that while these people, the Communist Party, talked about that during the war, that after the war it was an entirely different picture; and I began to see the expansionism of Russia, the way they were reaching out and trying to gobble up and where they did gobble up other countries, and the big war machine they were building, so that I became gravely concerned with that particular phase of it.

Then, the straw that broke the camel's back was when the UE leadership began to attack the CIO, and when the Communist Party began to develop a program to actually pull the UE out of the CIO, along with 10 or 11 other unions; and I really got worried about that, and I could see that was what was going to happen. The party started that and, while there was a lot of opposition, even among some of the party people, they were all whipped in line and, finally, the unions, these unions, were thrown out of the CIO. I

felt that I had put a good share of my life, about 8 or 9 years, in that particular thing, in building that union, and building the CIO, and I felt it was all going down the drain. I then realized that the party was not interested in building the union to help the working people—and on a bread-and-butter basis is what I've always been interested in—how much bread and butter, and how much more bread and butter can we get for the people who belong to the union, for the working people. I began to realize they were not interested in that, but only using the unions to further their own political ends, and that whenever those political ends didn't fit with the union that they were ready to dump the union. Well, later events show that is what happened, as far as that union is concerned.

Now, I always understood—and I believe it is true—that you just don't resign from the Communist Party. You just don't one day wake up and write a letter and say, "I resign from the party." That's a joke. People would laugh at you. So, you've just got to get away from it, and it isn't easy after you are in the party for a long time. It becomes a habit. You just don't break the habit so easily. You have to do a lot of thinking about it. You have to live with yourself for a while. You have to think about it a lot. And, finally, you come to your conclusion and you just walk away from it.

That's the way I did it. You just walk away from it. You don't want to talk about it any more; and, so, you just talk to yourself about it and, finally—well, an opportunity like this comes along, and—well, I made up my mind, and here I am.

Mr. Tavenner: You came voluntarily to the committee?

Mr. Davis: Yes, sir.

Mr. Tavenner: And expressed a willingness to testify regarding any question they might ask you?

Mr. Davis: Yes, sir.

Mr. Tavenner: Well, after you severed your connection with the Communist Party, did you then obtain an office in your union?

Mr. Davis: Yes, sir. On June 2, I was elected business agent of the Hotel and Restaurant Employees' union.

Mr. Tavenner: June 2 of what year?

[fol. 131] Mr. Davis: 1953.

Mr. Tavenner: And you hold that position now?

Mr. Davis: Yes, sir.

Mr. Tavenner: Mr. Chairman, I think that concludes all I desire to ask the witness.

Mr. Kearney: Mr. Davis, the committee, through the Chair, wants to thank you for your voluntary appearance before this committee. We hope that by your example you have set an example for others to do the same thing.

With the thanks of the committee, you are excused.

Mr. Davis: Thank you, sir.

Mr. Kearney: The committee will be in recess for 10 minutes.

(Whereupon, at 2:37 p. m., the hearing was recessed, to reconvene at 2:47 p. m.)

(The hearing reconvened at 2:55 p. m.)

Mr. Kearney: The committee will be in order.

Call your next witness.

Mr. Tavenner: Mr. Chairman, I think I should announce to the committee at this point who will next be called. I have taken them out of the order in which the staff had planned to present them. They were not expected, according to our plans, to appear until tomorrow or Thursday, but we learned of the fact they had employed the same counsel and that counsel, because of previous engagements, could not appear at any date later than today. Subpenas originally read for the appearance on yesterday and today. So, in light of this situation, we are calling the next three witnesses out of order.

Mr. Morris Zuckman, will you come forward, please?

Mr. Kearney: Mr. Zuckman, do you swear that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Zuckman: I do.

Mr. Kearney: Do you object to having your testimony broadcast?

Mr. Zuckman: I'll abide by the committee's decision, Your Honor.

Mr. Kearney: Now, the committee's rule is, Mr. Zuck-

man, if a witness objects, the chairman will order the broadcast stopped.

Mr. Zuckman: Well, then, I will object to it.

Mr. Kearney: All right.

Mr. Zuckman: Mr. Chairman, I wonder, in view of the fact that I sat here yesterday, some time yesterday, and today, and I found that this committee has given very courteous treatment to the witnesses who have preceded me—

Mr. Kearney: I will say, as chairman, the present witness will receive the same courteous treatment.

Mr. Zuckman: Thank you.

Now, in view of that fact, I have a statement that I would like to submit to the committee and read into the record.

Mr. Kearney: You can submit the statement, and we will look it over, and then if we think it is—

Mr. Zuckman: This statement will clearly state my position as to how I stand in connection with this so-called inquisition.

Mr. Kearney: So-called what?

Mr. Zuckman: Inquisition.

Mr. Kearney: I thought I understood you.

Mr. Scherer: I thought we were starting off with a note of courtesy.

[fol. 132]

TESTIMONY OF MORRIS ZUCKMAN, ACCOMPANIED BY HIS
COUNSEL, ROYAL W. FRANCE

Mr. Tavenner: Will you state your name, please, sir?

Mr. Zuckman: My name is Morris Zuckman.

Mr. Tavenner: Are you accompanied by counsel?

Mr. Zuckman: I am.

Mr. Tavenner: Will counsel please state his name for the record?

Mr. France: Royal W. France—F-r-a-n-c-e—104 East 40th Street, New York City.

Mr. Tavenner: When and where were you born, Mr. Zuckman?

Mr. Zuckman: I was born in the city of Albany, N. Y., on January 6, 1908.

Mr. Tavenner: Where do you now reside?

Mr. Zuckman: In the city of Albany, N. Y., at 62 Morris Street, Albany, N. Y.

Mr. Tavenner: What is your occupation?

Mr. Zuckman: My occupation is that of an attorney and counselor at law.

Mr. Tavenner: Will you tell the committee, please, what has been your formal educational training.

Mr. Zuckman: I graduated from the public schools in Albany, the high school of Albany; then I went to St. John's College, had 1 year of prelaw; then to St. John's University Law School, and graduated from St. John's University Law School, summa cum laude.

Mr. Tavenner: What was the date of the completion of your legal training?

Mr. Zuckman: I completed my legal training in June of 1931, I believe.

Mr. Tavenner: How long have you practiced law in the city of Albany?

Mr. Zuckman: I have been practicing law here from, I believe it was, December of 1933.

Mr. Tavenner: Between the time of your graduation in 1931 and 1933, how were you employed?

Mr. Zuckman: I served my clerkship with Caplain Aras, Esq., of the city of Albany, N. Y.

Mr. Tavenner: Mr. Zuckman, the investigation by the committee discloses that you were chairman of the American Labor Party in Albany for a period of time, beginning in 1946; is that correct?

Mr. Zuckman: Well, my position, Mr. Tavenner, is such that I don't think that this committee has any right to go into my political associations whatever.

Mr. Tavenner: Well, let me put it this way to you. That might be conditioned upon 1 or 2 facts. Having received the information that you were actively engaged in that organization, we would like to know whether during the period that you were chairman you became aware of the existence of any effort on the part of the Communist Party to influence the conduct of your organization. We are not interested whatever in the party of which you may have been chairman for any other purpose than to ascertain whether

or not there were Communist Party activities which had something to do with it.

(At this point Mr. Zuckman conferred with Mr. France.)

[fol. 133] Mr. Zuckman: On that score, Mr. Tavenner, I'll invoke the privilege under the fifth amendment.

Mr. Scherer: I submit the witness hasn't said he refuses to answer and says, "I will invoke the privilege under the fifth amendment."

Mr. Chairman, I ask that you direct the witness to answer the question.

(At this point Mr. Zuckman conferred with Mr. France.)

Mr. Zuckman: I refuse to answer the question on the grounds that it is a violation of the first amendment of the Constitution and on the grounds of the fifth amendment of the Constitution.

Mr. Scherer: That part of the fifth amendment which says you can refuse to answer if you feel that your answer might tend to incriminate you; is that right?

Mr. Zuckman: That is correct.

Mr. Tavenner: Were you a member of the Communist Party at any time in 1946 or 1947 and at the same time an official or one holding an official position in the American Labor Party at Albany?

Mr. Zuckman: Same answer as the previous answer.

Mr. Tavenner: Are you now a member of the Communist Party?

Mr. Zuckman: Same answer.

Mr. Tavenner: Have you ever been a member of the Communist Party?

Mr. Zuckman: Same answer.

Mr. Tavenner: I have no further questions.

Will Janet Scott please come forward?

Mr. Kearney: Do you swear the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

Miss Scott: I do.

Mr. France: The witness says, if the photographers want to take pictures, she would like them to take them now.

Mr. Kearney: That was the instruction the Chair gave the photographers this morning.

Mr. France: She also would like to take advantage of the committee's ruling that there would be no broadcasting.

Mr. Kearney: The request will be granted.

Proceed, Mr. Counsel.

**TESTIMONY OF JANET SCOTT, ACCOMPANIED BY HER
COUNSEL, ROYAL W. FRANCE**

Mr. Tavenner: Will you state your name, please?

Miss Scott: Janet Scott.

Mr. Tavenner: Are you a native of Albany? Were you born here?

Miss Scott: I was born here over 21 years ago.

Mr. Tavenner: I have gotten myself in trouble before in attempting to be too specific on that question, but I am sure I would not have in your instance.

Are you accompanied by counsel?

Miss Scott: I am; by Mr. France.

Mr. Tavenner: Will counsel please identify himself for the record?

Mr. France: Royal W. France, 104 East 40th Street, New York City.

Mr. Tavenner: What is your occupation, please?

Miss Scott: I'm a newspaper reporter.

[fol. 134] Mr. Tavenner: Will you tell the committee, please, what your formal educational training has consisted of?

Miss Scott: I was graduated from St. Agnes School in Albany and from Wellesley College—a B. A. degree from Wellesley.

Mr. Tavenner: When did you receive your B. A. degree?

Miss Scott: 1925.

Mr. Tavenner: Will you advise the committee, please, what your record of employment has been since 1935?

Miss Scott: No; 1925.

Mr. Tavenner: Well, I understand that. I am asking you since 1935.

Miss Scott: Oh, yes.

I have worked for the Knickerbocker News—that is, for the Press Co.

Mr. Tavenner: For how long a period of time?

Miss Scott: From—well, the full time, from 1935 on; from before that time, as a matter of fact. It was my first job and my only job, full time.

Mr. Tavenner: The committee's investigation discloses that you took a leading part and an active part in the formation of the newspaper guild in this area; is that information correct?

Miss Scott: Oh, yes.

Mr. Tavenner: When was the newspaper guild formed in this locality?

Miss Scott: Oh, it was chartered, I think, on March 10—or, anyway, in March 1934—Tri City Newspaper Guild.

Mr. Tavenner: Have you held various positions in the guild since that time?

Miss Scott: I've always been on the executive board or committee from that time on, and I have been secretary-treasurer, and for one term president of the guild.

Mr. Tavenner: When were you president of the guild?

Miss Scott: I really don't recall the date. It was during the war when a president went into service, and the date has escaped me. It was in the 1940's, as I recall.

Mr. Tavenner. Was it in 1946 or 1947?

Miss Scott: I really don't remember.

Mr. Tavenner: When did you occupy the other positions that you referred to?

Miss Scott: Well, I've always been on the executive committee, and I was secretary—first, I was treasurer and then we consolidated the positions of treasurer with secretary-treasurer, and I was that, I think, for a period of, oh, 6 or 7 years. I could get the data, but I am sure your research people would have that.

Mr. Tavenner: I know; if you could just answer it within a reasonable period—

Miss Scott: I really don't remember. I served about 6 years, as I remember, as secretary.

Mr. Tavenner: Over what general period?

Miss Scott: I think from about 1936 or 1937 I was secretary-treasurer.

Mr. Tavenner: In the course of your work in the newspaper guild, did you have occasion to meet members of the guild from Los Angeles?

[fol. 135] Miss Scott: Oh, I had occasion, yes; and from all over the country at the guild conventions.

Mr. Tavenner: Were you acquainted with Morgan Hull, one of the founders of the guild?

(At this point Miss Scott conferred with Mr. France.)

Miss Scott: Yes; he was an organizer for the guild, and he was at conventions. I mean, there's a long list of delegates—hundreds of them.

Mr. Tavenner: Were you acquainted with Charles W. Judson?

Miss Scott: Not that I recall, Counsel.

I am bad on names for a newspaper reporter—I am sorry—and I face it sometimes. I don't know.

He might have been a delegate when I was there. I am not saying I didn't meet the man, but I don't recall.

Mr. Tavenner: My purpose in asking you these questions is this: Rather extensive hearings were conducted by this committee on the west coast and in Washington, during the course of which a number of persons testified—probably 8 or 9—and advised the committee regarding the activities of the Communist Party within the Newspaper Guild. Morgan Hull, to whom we referred, in addition to being an organizer for the guild, was very active in organizing a unit of the Communist Party within the guild. Charles Judson, who was a member of the guild in Los Angeles, was very active in that work.

Did you become acquainted with Urcel Daniel?

(At this point Miss Scott conferred with Mr. France.)

Miss Scott: Well, she was a delegate. I don't remember when. I think she was from one west coast city. I never knew too well whether she was from Los Angeles or San Francisco. We had delegates from all over. I—

Mr. Tavenner: You attended, then, I assume, the national conventions of the American Newspaper Guild?

Miss Scott: No; not all of them—the ones to which I was elected. I attended, oh, maybe four of them, or so.

Mr. Tavenner: Will you tell me which the four were that you attended?

Miss Scott: I attended one in New York, which was before we lost our very great president, Heywood Broun.

Mr. Tavenner: What is the date, please, approximately? Can you fix the year?

Miss Scott: That was before we took the radical step of joining the A. F. of L. I believe it was 1935—about 1936.

And I was at the one where we joined the CIO in St. Louis, and I really don't remember the dates. It's about 1937 or 1936, in that time.

I was also at one in Toronto, which was the last one, I think, that Heywood Broun was alive.

Mr. Tavenner: What was the approximate date?

Miss Scott: Those were more or less at the same—I mean the next year—and I've attended one, I think, in Detroit, and also one in the Twin Cities.

There were five, I guess, and the dates of those were in the late thirties or forties.

Mr. Tavenner: The committee has been advised by a number of these witnesses as to the activities of the Communist Party within the Newspaper Guild, and my purpose in asking you these questions is to ascertain from you what knowledge you had, if any, regarding Communist activities within the Newspaper Guild.

What knowledge did you have of Communist Party activities, if any, in the Newspaper Guild?

(At this point Miss Scott conferred with Mr. France.)

Miss Scott: Well, I have a statement that I would like to make on this general subject—that is, any question which is along these lines—

Mr. Tavenner: Well, I am sorry—

Miss Scott: Not the guild.

Mr. Tavenner: I will have to ask you to answer my question first.

Miss Scott: Well, then, I would have to decline to answer the question on the grounds of the violation of the—invo-king the first and the fifth and the sixth amendments.

Mr. Kearney: The fifth amendment on the grounds it might incriminate you?

Miss Scott: Is that the word?

(At this point Miss Scott conferred with Mr. France.)

Miss Scott: Yes; that would be substantially the word.

Mr. Tavenner: Were you a member of the Communist Party at any time during the years 1946 and 1947?

Miss Scott: I must decline to answer any question like that on the same grounds.

And could I ask whether I may now please hand you my statement and be able to enter the statement in the record, or read it?

Mr. Kearney: Miss Scott, let me ask you this question: If you were not a member of the Communist Party, would you so state?

Miss Scott: Congressman Kearney, I don't think anybody, any lawyer, would be getting to the New York State Bar examination today if they took that attitude about the fifth amendment. I mean, I think if you would let me read my statement—

Mr. Kearney: Would you mind answering my question, please.

Miss Scott: I think I stand on the statement. The statement explains the safeguards of the fifth amendment.

Mr. Kearney: I insist, Miss Scott, that you answer my question.

(At this point Miss Scott conferred with Mr. France.)

Miss Scott: I am invoking my privilege again.

Mr. Kearney: That is the answer I expected to receive.

Mr. Tavenner: Are you aware of any organized effort of the Communist Party in Albany to infiltrate the American Labor Party in Albany?

Miss Scott: I stand on the amendments—invoke the same amendments—and I mean these—you know, these specific ones I mention in the statement—each time I say that.

Mr. Tavenner: It will be satisfactory, I am sure, for you to say for the same reasons and on the same grounds.

Miss Scott: For the same reasons.

Mr. Tavenner: Are you now a member of the Communist Party?

Miss Scott: Decline to answer for the same reasons.

Mr. Tavenner: Did you attend a section meeting of the Communist Party in Albany which was held during the year 1946 or 1947?

Miss Scott: I must decline to answer on the same grounds.

[fol. 137] Mr. Tavenner: No; I beg to differ with you. There is no reason why you must do so.

Miss Scott: I think there is.

Mr. Tavenner: The question is: Do you decline?

Miss Scott: I decline to answer it, on the same grounds.

Mr. Tavenner: Have you ever been a member of the Communist Party?

Miss Scott: I decline to answer on the same grounds. It is an invasion of my constitutional rights.

Mr. Tavenner: I have no further questions, Mr. Chairman.

Mr. Kearney: The witness is excused.

Mr. Tavenner: I would like to call Sarah Kaufman.

Will you come forward, please?

Mr. Kearney: Do you swear that the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Kaufman: I do.

TESTIMONY OF SARAH KAUFMAN, ACCOMPANIED BY HER
COUNSEL, ROYAL W. FRANCE

Mr. Tavenner: Will you state your name, please?

Mrs. Kaufman: My name is Sarah Kaufman—K-a-u-f-m-a-n.

Mr. Kearney: Let's ask the photographers, please, not to interrupt the witness while she is testifying.

Mr. France: May I state, Mr. Chairman, this witness also would prefer not to have the radio broadcasting.

Mr. Kearney: She objects to the radio broadcast?

Mr. France: Yes, sir.

Mr. Kearney: The request is granted, under the rules of the committee.

Mr. Tavenner: Are you accompanied by counsel?

Mrs. Kaufman: Yes; I am.

Mr. Tavenner: Will counsel please identify himself for the record?

Mr. France: Royal W. France, 104 East 40th Street, New York City.

Mr. Tavenner: Are you a native of Albany?

Mrs. Kaufman: No; I am not.

Mr. Tavenner: Where were you born?

Mrs. Kaufman: I was born in Copenhagen, Denmark.

Mr. Tavenner: Are you a naturalized American citizen?

Mrs. Kaufman: Yes; I am.

Mr. Tavenner: When and where were you naturalized?

Mrs. Kaufman: It's a matter of public record.

Mr. Tavenner: Will you tell us where that record is made?

Mrs. Kaufman: That record is in the Bronx, N. Y.

Mr. Tavenner: And the date, please.

Mrs. Kaufman: It's a matter of public record, sir.

Mr. Kearney: The witness will please answer the questions.

(At this point Mrs. Kaufman conferred with Mr. France.)

Mrs. Kaufman: It's approximately June 1924.

Mr. Tavenner: Are you married?

Mrs. Kaufman: Yes; I am.

[Fol. 138] Mr. Tavenner: Were you naturalized under your married name?

Mrs. Kaufman: No; I was naturalized when I was 10 years old.

Mr. Tavenner: And what was your name?

Mrs. Kaufman: Sarah Schwartzman.

Mr. Tavenner: Mrs. Kaufman, the committee has information indicating you took part in Communist Party activities in Albany, and it is the desire of the committee to ask you what you know of the operations of the Communist Party in this area. So, I would like to ask you whether or not, first, is it correct that you do have knowledge of Communist Party activities in this area?

Mrs. Kaufman: I refuse to answer any questions relating to my beliefs, associations, and affiliations, and for many reasons. Paraphrasing one of the great documents of our country, the Declaration of Independence—may I not quote the Declaration of Independence?

Mr. Kearney: The witness will refrain from making a speech.

Mrs. Kaufman: Well, I want to give my reasons—

Mr. Kearney: Just answer the question.

Mrs. Kaufman: That I refuse to answer any questions—

Mr. Kearney: Just answer the questions of counsel.

Mrs. Kaufman: With regard to my personal beliefs, affiliations, and associations, and I wish to invoke the fifth amendment, which says no witness—

Mr. Kearney: We understand what the fifth amendment says—

Mrs. Kaufman: May be compelled to be a witness against himself.

Mr. Kearney: And there is no need for you to go on further with any speech.

Mrs. Kaufman: I should like to make it clear I say this without conscience of guilt.

Mr. Kearney: We want to treat the witness as we have treated all witnesses, with the utmost courtesy; but we expect cooperation from the witness.

Mrs. Kaufman: The witness will not cooperate with a committee of this nature that pries into the personal beliefs of a witness.

Mr. Tavenner: I might say to you, Mrs. Kaufman, I have asked you no question regarding your personal beliefs. I am interested only in facts. So, I am asking you: Have you ever been a member of the Communist Party?

Mrs. Kaufman: I refuse to answer any questions, and I invoke the fifth amendment.

(At this point Mrs. Kaufman conferred with Mr. France.)

Mr. Kearney: If you were not a member of the Communist Party, would you so state?

Mrs. Kaufman: I refuse to answer that question on the ground of the fifth amendment.

Mr. Tavenner: How long have you lived in Albany?

Mrs. Kaufman: I've been here 15 years.

Mr. Tavenner: What part of that period have you been married?

Mrs. Kaufman: All that period.

Mr. Tavenner: Have you engaged in any type of employment since you have been in Albany?

Mrs. Kaufman: Yes; I worked on a very temporary basis for a very short time for the State of New York.

Mr. Tavenner: When was that?

[fol. 139] Mrs. Kaufman: 1939 and part of 1940.

Mr. Tavenner: What was the nature of the position that you held?

Mrs. Kaufman: Menial. I did typing.

Mr. Tavenner: Were you a member of the Communist Party at that time?

Mrs. Kaufman: I invoke the fifth amendment.

Mr. Tavenner: Were you a member of the Communist Party in 1946 or 1947?

Mrs. Kaufman: I refuse to answer that on the same grounds.

Mr. Tavenner: Were you a member of the Communist Party in 1946 or 1947?

Mrs. Kaufman: I refuse to answer that on the same grounds.

Mr. Tavenner: Were you employed during 1946 and 1947?

Mrs. Kaufman: I've been a housewife.

Mr. Tavenner: During that entire period?

Mrs. Kaufman: Yes, sir.

Mr. Scherer: Mrs. Kaufman, have you ever received any compensation or anything of value from the Communist Party?

Mrs. Kaufman: I refuse to answer that question on the grounds of the fifth amendment.

Mr. Tavenner: Have you ever contributed anything to the Communist Party?

Mrs. Kaufman: I refuse to answer that question on the same grounds, and—if I could ask the kind permission and indulgence of this committee for 5 minutes—I would like to give my reasons for invoking the fifth amendment.

Mr. Kearney: Do you have a statement you would like to file?

Mrs. Kaufman: I do.

Mr. Kearney: Will you hand it up, please?

Mr. Tavenner: Are you now a member of the Communist Party?

Mrs. Kaufman: I refuse to answer the question on the same grounds of the fifth amendment.

Mr. Tavenner: I have no further questions, Mr. Chairman.

Mr. Kearney: The witness may be excused.

Mr. France: Mr. Chairman, I wish to thank the committee and counsel for extending me the courtesy of putting these witnesses in out of order and in order that I might meet another engagement.

Mr. Kearney: It has been a pleasure to accommodate you.

Do you have a further witness?

Mr. Tavenner: Yes, sir.

Mr. Louis Geller.

Would you come forward, please?

Mr. Kearney: Do you swear the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Geller: I do.

Mr. Colloms: My client has requested that the broadcast be turned off and, in accordance with the committee's ruling—

Mr. Kearney: Under the committee rules, the request is granted.

[fol. 140] TESTIMONY OF LOUIS GELLER,
ACCOMPANIED BY HIS COUNSEL, ALBERT L. COLLOMS

Mr. Tavenner: What is your name, please?

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Geller: My name is Louis Geller—G-e-l-l-e-r.

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Tavenner: Are you accompanied by counsel?

Mr. Geller: I am, sir.

Mr. Tavenner: Will counsel please state his name and address for the benefit of the record?

Mr. Colloms: My name is Albert L. Colloms, 342 Madison Avenue, New York City.

Mr. Tavenner: Mr. Geller, the committee is anxious to know what information you have, if any, regarding Communist Party activities in this area.

Now, Mr. Nick Campas testified here this morning and you may have heard his testimony. His testimony was that you were a member of the Young Communist League

along with him, and others. My first question, therefore, is: Was Mr. Campas telling the truth about that matter?

Mr. Geller: I decline to answer this question, Mr. Chairman, and I'll tell you why. I decline to—

Mr. Tavenner: Just a moment.

Mr. Geller: To answer questions of this committee regarding my political views or associations.

Mr. Kearney: I think that the witness and the committee will get along much better if the witness answers the question. If the witness has a statement, it may be handed up to the Chair.

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Colloms: May we ask that the statement be included in the record, Mr. Chairman?

Mr. Kearney: Let me have a chance to look it over first, please.

Mr. Tavenner: I want, of course, to give you an opportunity to state the legal grounds, if any, that you have—

Mr. Geller: I would like—

Mr. Tavenner: For refusing to answer the question.

Mr. Geller: May I have your permission to state my legal grounds?

Mr. Tavenner: Yes; if you state your legal grounds.

Mr. Geller: I decline to answer the questions of this committee regarding my political views or associations or affiliations because I feel such questions violate my rights under the first amendment of the Bill of Rights of the Constitution which—by which all citizens are guaranteed the freedom of speech and peaceful association.

Second, I decline to answer such questions because I refuse to be a party to this Un-American Committee's repressive action—

Mr. Tavenner: Now, just a minute.

Mr. Geller: Did you give me permission to read my statement?

Mr. Tavenner: No; not that kind of statement.

Mr. Geller: Well, I am giving you my legal grounds.

Mr. Tavenner: No; that is not a legal ground.

Mr. Geller: Do you mean to tell me the first amendment and fifth amendment are not legal grounds?

[fol. 141] Mr. Tavenner: If you are relying—

Mr. Kearney: We are not going to let the witness get away with any statement that includes the words "Un-American Committee." If the witness wants to designate this committee by its title, he may do so; but he will not be allowed to designate it as the "Un-American Committee."

Mr. Tavenner: If you are relying—

Mr. Geller: I beg your pardon. May I add—

Mr. Tavenner: Just a moment. If you are relying upon constitutional reasons as the grounds for refusal to answer the question and you name the first amendment and you name the fifth amendment, the committee knows very well what you mean.

Mr. Geller: That's true, but the public doesn't know what I mean. The public hasn't been a chance—hasn't had a chance to hear what the witness wants to say.

Mr. Tavenner: Well, you don't want to say anything. That's the trouble. You want to make a speech.

Mr. Geller: Well, I want to say something, but you won't give me a chance.

Mr. Kearney: I will say to the witness if he will answer the questions we will let him talk here all day.

It was requested yesterday there be no demonstrations, favorable, or unfavorable.

I will say to the attorney representing this witness that this statement will not be admitted and made a part of the record for the reason that, all through it, it contains the words "Un-American Committee."

Mr. Tavenner: I understand, then, that you base your refusal to testify on the first and the fifth amendments?

Mr. Geller: That is true, and the sixth.

Mr. Tavenner: And the sixth?

Mr. Geller: Yes.

Mr. Tavenner: Well, were you a member of the Young Communist League at the time that Mr. Campas testified that you were?

Mr. Geller: I refuse to answer that question on the grounds that you have already stated—the first, fifth and sixth amendments to the Constitution.

Mr. Tavenner: Did you at any time become a member of the Communist Party?

Mr. Geller: I refuse to answer on the first, fifth, and sixth amendments to the Constitution.

Mr. Kearney: If you were not a member of the Communist Party, would you so state?

Mr. Geller: I refuse to answer on the first, fifth, and sixth amendments to the Constitution.

Mr. Tavenner: Are you now a member of the Communist Party?

Mr. Geller: I refuse to answer on the above reasons—the first, fifth, and sixth amendments to the Constitution.

Mr. Tavenner: What is your employment?

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Geller: I am an electrician.

Mr. Tavenner: In the city of Albany?

Mr. Geller: Yes, sir.

[fol. 142] Mr. Tavenner: How long have you been engaged as an electrician in the city of Albany?

Mr. Geller: Approximately 5 years.

Mr. Tavenner: Prior to that time, how and where were you employed?

Mr. Geller. How—what period of time, may I ask?

Mr. Tavenner: Well, what was your employment immediately prior to the one that you just named?

Mr. Geller: I was employed as a foreman in a motor rebuilding plant outside of Albany.

Mr. Tavenner: What plant was that?

Mr. Geller: I don't think it's necessary; but if you insist upon it, I'll give it to you. I don't think you ought to bother with the people involved. It was A. L. Parson & Sons, Central Bridge, N. Y.

Mr. Tavenner: Prior to that employment, what was your employment?

Mr. Geller: From 1939 to 1947, I was employed in the General Electric Co. in Schenectady.

Mr. Tavenner: What was the nature of your employment in Schenectady?

Mr. Geller: Various types of employment.

Mr. Tavenner: Will you please state them?

Mr. Geller: I was a radio test man.

Mr. Tavenner: In what branch or department of the plant?

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Geller: In the transmitter section of General Electric.

Mr. Tavenner: Were you working on Government projects?

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Geller: Yes, sir.

Mr. Tavenner: What type of Government projects?

Mr. Geller: Transmitters.

Mr. Tavenner: They were used for what purpose by the United States Government?

Mr. Geller: Aircraft; aircraft transmitters.

Mr. Scherer: Were you a member of the Communist Party while you were working on those transmitters?

Mr. Geller: I refuse to answer on the first, fifth, and sixth amendments of the Constitution.

I have always been a loyal citizen of this country. I have never committed any act which might be construed as detrimental to the United States, to the Bill of Rights, to the Constitution.

Mr. Scherer: We haven't said you have, have we?

Mr. Kearney: Proceed, Mr. Counsel.

Mr. Tavenner: Were you aware of any Communist Party activities among your associates engaged in the war work which you have just described?

Mr. Geller: I refuse to answer it on the first, fifth, and sixth amendments.

Mr. Tavenner: Who was the organizer of the UE in the territory that you were then working in and under whom you came in the organizational setup of the work?

Mr. Geller: I don't know. I don't know exactly what you mean.

Mr. Tavenner: How long were you employed in that position?

[fol. 143] Mr. Geller: Sir?

Mr. Tavenner: How long were you employed in the position you have described in Schenectady?

Mr. Geller: Through the war.

Mr. Scherer: Do you know if any other employees who worked with you at General Electric during that time were members of the Communist conspiracy?

Mr. Geller: I refuse to answer it on the first, fifth, and sixth amendments.

Mr. Scherer: The fifth amendment applies to yourself, but not to knowledge that you might have of third parties, or other parties.

Do you want to consult your counsel about that?

(At this point Mr. Geller conferred with Mr. Colloms.)

Mr. Geller: If that's a question on your part, sir, I refuse to answer on the above grounds. If that's a statement of fact on your part, why, that's all it is.

Mr. Kearney: The Chair will allow your answer to stand.

Mr. Tavenner: What was the reason for your leaving your position with GE?

Mr. Geller: Financial.

Mr. Colloms: Explain it.

Mr. Geller: How?

Mr. Colloms: Explain it.

Mr. Geller: Well, I was making \$56 a week, and \$56 a week didn't go very far with a wife and 2 children. An opportunity presented itself for advancement otherwise. So I left GE.

Mr. Tavenner: Are you now a member of the Communist Party?

Mr. Geller: I refuse to answer on the above reasons already stated.

Mr. Tavenner: I have no further questions, Mr. Chairman.

Mr. Kearney: The witness is excused.

The committee will stand in recess until tomorrow morning at 10:30, and all those in the audience who have been subpoenaed today will return at that hour.

(Whereupon, at 3:42 p. m., the hearing was recessed, to reconvene at 10:30 a. m., Wednesday, July 15, 1953.)

[fol. 144]

GOVERNMENT'S EXHIBIT 2

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE CHICAGO AREA—Part 1

HEARING

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

SECOND SESSION

MARCH 15, 1954

Printed for the use of the Committee on
Un-American Activities

[fol. 145]

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE CHICAGO AREA—Part 1

MONDAY, MARCH 15, 1954

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON UN-AMERICAN
ACTIVITIES,

Chicago, Ill.

PUBLIC HEARING

The subcommittee of the Committee on Un-American Activities met, pursuant to notice, at 1 p. m., in room 224, United States Courthouse, Chicago, Ill., Hon. Harold H. Velde (chairman) presiding.

Committee members present: Representatives Harold H. Velde, Gordon H. Scherer, and Morgan M. Moulder.

Staff members present: Robert L. Kunzig, counsel; Raphael I. Nixon, director of research; Earl L. Fuoss, W. Jackson Jones, and George C. Williams, investigators; and Juliette P. Joray, acting clerk.

Mr. Velde: The committee will be in order.

I should like to make an opening statement regarding our work here in the city of Chicago.

The Congress of the United States, realizing that there are individuals and elements in this country whose aim it is to subvert our constitutional form of government, has established the House Committee on Un-American Activities.

In establishing this committee, the Congress has directed that we must investigate and hold hearings either by the full committee or by a subcommittee, to ascertain the extent and success of subversive activities directed against these United States. On the basis of these investigations and hearings, the Committee on Un-American Activities reports its findings to the Congress and makes recommendations from these investigations and hearings for new legislation.

As a result of this committee's investigations and hearings, the Internal Security Act of 1950 was enacted. Over the past 15 years this committee has been in existence, both as a special and permanent committee, it has made 47 recommendations to the Congress to insure proper security against subversion. I am proud to be able to state that of these 47 recommendations, all but 8 have been acted upon in one way or another. Among those recommendations which the Congress has not acted upon are those which provide that witnesses appearing before congressional committees be granted immunity from prosecution on the information they furnish. The committee has also recommended that evidence secured from confidential devices be made admissible as evidence in cases involving the national security. The executive branch of government has now also asked the Congress for such legislation, and study is now being made on various bills dealing with this matter.

[fol. 146] The Congress has also referred to the House Committee on Un-American Activities a bill which would amend the National Security Act of 1950. This bill, if enacted into law, would provide that the Subversive Activities Control Board should, after suitable hearings and procedures, be empowered to find if certain labor organizations are in fact Communist-controlled action groups. Following this action, such labor groups would not have available the

use of the National Labor Relations Board as they now have under the provisions of the Labor-Management Relations Act of 1947.

During the first session of this, the 83d Congress, the House Committee on Un-American Activities has held hearings in Los Angeles and San Francisco, Calif.; Albany and New York City, N. Y.; Philadelphia, Pa.; and Columbus, Ohio. We are here in Chicago, Ill., realizing that this is the center of the great midwestern area of the United States. It cannot be said that subversive infiltration has had a greater, nor a lesser success in infiltrating this important area. The hearings today are the culmination of an investigation that has been conducted by the committee's competent staff and is a part of the committee's intention for holding hearings in various parts of the country.

The committee has found that by conducting its investigations and holding hearings in various parts of the country, it has been able to secure a fuller and more comprehensive picture of subversive efforts throughout our Nation.

Every witness who has been subpoenaed to appear before the committee here in Chicago, as in all hearings conducted by this committee, are known to possess information which will assist the committee in performing its directed function to the Congress of the United States. The first witness to be called for appearance today, while not having information relating directly to activities within the midwestern area, possesses information relative to activities in our great neighboring areas to the northwest. While the committee has scheduled hearings to be held in Albany, N. Y.; San Diego, Calif.; and Detroit, Mich., it is felt that this witness whose information we hope will be of assistance to us, should be able to advise you of activities both on the west as well as on the east coast.

I have appointed my good friend and colleague, Representative Gordon H. Scherer of Ohio, another very good friend and colleague, Mr. Morgan Moulder of Missouri, and myself as chairman.

Mr. Kunzig, will you call the first witness, please?

Mr. Kunzig: Mr. Chairman, prior to calling the first witness whom you just mentioned, I should like with your permission, sir, to call as our first witness Mr. George C.

Williams, an investigator of the House Committee on Un-American Activities. I intend to call immediately after Mr. Williams the witness you mentioned, whom we have reason to believe has certain information connected with Communist activities in the west coast area. This witness, Mr. Vern Todd Riley, has been for years a Federal employee. In the interest of clarity in obtaining information from Mr. Riley, it is important to have the record show the chronological history of his Government employment. Our investigator, Mr. Williams, sir, has analyzed this chronological history and will testify at this time.

Mr. Williams:

Mr. Velde: Without objection that procedure will be followed.

[fol. 147] Will you raise your right hand? In the testimony you are about to give before this subcommittee, do you solemnly promise to tell the truth, the whole truth, and nothing but the truth, so help me God?

Mr. Williams: I do.

TESTIMONY OF GEORGE C. WILLIAMS

Mr. Kunzig: Would you state your full name, please, Mr. Williams?

Mr. Williams: George C. Williams.

Mr. Kunzig: You are an investigator of the House Committee on Un-American Activities?

Mr. Williams: Yes, sir, I am.

Mr. Kunzig: Have you had occasion in such employment to prepare a chronological history of the Vernon Todd Riley case?

Mr. Williams: Yes, I have.

Mr. Kunzig: Would you please give that chronological history to the committee, sir, at this time?

Mr. Williams: In November 1942 Mr. Riley was first employed by the Federal Government. In August 1943 Mr. Riley transferred with the Government from Washington State to Washington, D. C. The first loyalty hearings concerning Mr. Riley were conducted under provisions of Executive Order 9835 promulgated by the President of the

United States which set forth in substance that there must be reasonable grounds to believe that an employee was disloyal before dismissal action was taken.

On December 7, 8, 9, and 10, 1948, the first hearings before an agency loyalty hearing board were conducted. This hearing board was officially known as the Federal Security Agency Board of Inquiry on Employee Loyalty. No decision was reached on this hearing and additional investigation was requested.

On March 23 and 25, 1949, these hearings were continued.

On August 9, 1949, the board reached a decision favorable to Mr. Riley. On January 18, 1950, the decision was favorably postaudited by a panel of the Loyalty Review Board which was a part of the Civil Service Commission. Executive Order 10241 went into effect April 28, 1951. The provisions of this Executive order were in substance that there had to be a reasonable doubt as to the loyalty of the employee.

Shortly subsequent to this Executive order, Mr. Riley's case was reopened for adjudication under the amended standard provisions by the agency.

On August 8, 1951, a new favorable decision regarding Mr. Riley was reached by the agency board in Washington, D. C. No new hearings had been held at this time, however. Shortly after decision was reached by the agency hearing board, the case was sent to the Loyalty Review Board for postaudit. June 25, 1952, a panel of the Loyalty Review Board remanded the case to the agency for the issuance of an amended letter of charges and possibly conducting additional hearings.

January 5, 1953, the agency loyalty board sent Mr. Riley a new letter of charges. January 16, 1953, an amended letter of charges was sent by the agency loyalty board to Mr. Riley. January 29, 1953, Mr. Riley submitted one reply covering both letters. On March 16 and 17, 1953, the agency hearing board conducted a new hearing.

[fol. 148] March 20, 1953, the hearing board made an unfavorable determination concerning Mr. Riley.

On April 2, 1953, Mr. Riley appealed the decision to the administrator of the agency.

April 9, 1953, the decision was remanded by administrator to the agency board for the purpose of additional hearings.

April 29 and May 1, 1953, additional hearings were conducted by the agency loyalty hearing board.

On May 7, 1953, the board rendered a favorable determination for Mr. Riley.

Shortly thereafter the case went to the Loyalty Review Board for post audit. Before decision was reached by the Loyalty Review Board, Executive Order 10450, promulgated by President Eisenhower, had gone into effect.

The decision favorable to Mr. Riley was based on the old rules and regulations in effect on May 7, 1953. The provisions of Executive Order 10450 sets forth in substance that a person's retention in Government employment must be clearly consistent with the interest of national security. Executive Order 10450 went into effect on May 27, 1953.

In order to carry out the provisions of Executive Order 10450, a Security Hearing Board was established which replaced both the agency loyalty hearing board and the Loyalty Review Board.

On May 28, 1953, the case was remanded by the Loyalty Review Board to be heard under the new provisions of Executive Order 10450, promulgated by President Eisenhower. October 22, 1953, Mr. Riley was suspended by the Secretary of Health, Education, and Welfare, Mrs. Hobby.

Mr. Scherer: What was that date?

Mr. Williams: October 22, sir.

October 23, 1953, a new letter of charges went to Mr. Riley by the Security Hearing Board. On November 18, 1953, Mr. Riley filed an answer to these charges.

On January 12, 1954, the Security Hearing Board conducted a new hearing concerning Mr. Riley.

On January 25, 1954, the Security Hearing Board reached an unfavorable determination for Mr. Riley. On January 27, 1954, the Secretary of Health, Education, and Welfare, Mrs. Hobby, directed Mr. Riley's termination of employment effective February 1, 1954.

Mr. Kunzig: Mr. Williams, this record was compiled from official Government documents; is that correct?

Mr. Williams: Yes, sir; that is correct.

Mr. Kunzig: I have no further questions.

Mr. Scherer: That was compiled by you, was it, Mr. Williams?

Mr. Williams: Yes, sir; it was compiled by me based on information I received from the Government.

Mr. Scherer: For the purpose of the record will you give us something of your educational background and training?

Mr. Williams: Yes, sir. To begin with my college, sir, I was educated in the University of Virginia which I attended 1946 to 1950. In 1950 I became employed as a special agent with the Federal Bureau of Investigation. This employment was terminated in 1953. I resigned, and shortly thereafter I came with this committee as an investigator.

[fol. 149] Mr. Scherer: You have been an investigator with this committee ever since?

Mr. Williams: Yes, sir; for approximately 1 year.

Mr. Scherer: You have read the record of Vernon T. Riley as you obtained it from the files of the executive branch of the Government.

Will you state whether Mr. Riley was employed by the Federal Government on October 12, 1953?

Mr. Williams: Yes, sir; he was.

Mr. Scherer: If the chairman please, I would like to offer in evidence at this time my letter of October 12, 1953, to Mrs. Hobby, in which I asked that she furnish the House Committee on Un-American Activities certain information with respect to Vernon Todd Riley.

Mr. Velde: That letter will be marked as "Williams Exhibit No. 1," and without objection will be introduced into evidence at this point.

(The letter of October 12, 1953, marked "Williams Exhibit No. 1" for identification was received in evidence.)¹

Mr. Scherer: What do the records show with reference to his employment on October 23?

¹ Retained in committee files.

Mr. Williams: On October 22, Mr. Riley was suspended by the Secretary of Health, Education, and Welfare, Mrs. Hobby. On the 23d he was no longer working with them. He was on suspension.

Mr. Scherer: If the chairman please, I have a copy of my letter of October 23, 1953, to the Secretary of Health, Education, and Welfare, and I would like to read it at this time with your permission.

Mr. Velde: Is there objection?

Mr. Moulder: No objection.

Mr. Velde: You may proceed.

Mr. Scherer (reading):

On October 12 I wrote you concerning a photostatic copy of the application filed by Mr. Vernon Todd Riley at the time he was employed by the United States Public Health Service together with a photostatic copy of form 57 brought up to date.

To date I have received no reply to this letter.

Would you kindly follow this matter up and see if I can get the information requested at the earliest possible time?

I would like to offer that copy in evidence, if the chairman please.

Mr. Velde: Of course you have already read it into the record. I can see no reason why it should be introduced as an exhibit at this time.

Mr. Scherer: All right.

I have a copy of a letter, Mr. Chairman, from the Acting Secretary of the Department of Health, Welfare and Education, namely from Mr. Nelson A. Rockefeller, dated October 27, 1954, which reads as follows:

Dear Congressman Scherer: In accordance with your request of October 12, 1953, I am enclosing photostatic copy of Mr. Vernon T. Riley's application filed at the time he was employed by the United States Public Health Service together with a photostatic copy of application form 57 which has been brought up to date. For your confidential information, Mr. Riley was suspended from active duty in the Public Health Ser-

vice under the provisions of Executive Order 10450 effective at the close of business October 22, 1953. If I can be of any further help, please let me know.

Nelson A. Rockefeller.

[fol. 150] I just want to point out, Mr. Chairman, that his date of suspension on October 22 was 10 days after the original letter from this committee dated October 12 inquiring about Mr. Riley's records.

Mr. Velde: May I say that the gentleman certainly should be commended for his prompt response to the problem that is involved in the Government employment.

Mr. Moulder: I have one question, Mr. Chairman. Mr. Williams, from your investigation and examination of the records do you know whether or not Mr. Riley was ever employed by any Government agency other than the United States Public Health Service?

Mr. Williams: Yes, sir; I think his first employment was with another agency.

Mr. Moulder: What agency was that?

Mr. Williams: I believe it was the United States Army Engineers in Spokane, Wash.

Mr. Moulder: Do you have information as to how long he was employed by the United States Army Engineers, and then when did he transfer to the United States Public Health Service?

Mr. Williams: Well, his first employment with a Government agency was in November of 1942. In August 1943 he went to Washington, D. C.

Mr. Moulder: That is all, Mr. Chairman.

Mr. Velde: Do you have any further questions?

Mr. Kunzig: No, Mr. Chairman.

Mr. Velde: The witness is excused. Call your next witness, please.

Mr. Kunzig: Mr. Chairman, the next witness is Vernon Todd Riley, but before I call him, I would like to state, sir, that I have discussed the matter of the television with Mr. Riley. I have explained to him and given him a copy of the rules of procedure of this committee of the House of Representatives and explained to him that under rule 13 (b) which reads as follows:

Upon the request of a witness that no telecast be made of him during the course of his testimony, the chairman shall direct that television cameras refrain from photographing the witness during the taking of his testimony.

Mr. Riley has respectfully requested, sir, that under rule 13 (b) that that rule go into effect and that the television cameras refrain from photographing him, and I now make that request to you at this time, sir.

Mr. Velde: As I understand our rules in that respect, the witness has the absolute right not to be telecast himself, but the television cameras, in the interest of giving information to the public may continue to operate.

Mr. Kunzig: Mr. Vernon Todd Riley, would you please step forward, sir.

Mr. Velde: Will you raise your right hand, Mr. Riley. In the testimony you are about to give before this subcommittee do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, so help me God?

Mr. Riley: Yes, sir.

TESTIMONY OF VERNON TODD RILEY

Mr. Kunzig: Would you kindly state your full name for the record, please, sir?

Mr. Riley: Vernon Todd Riley.

[fol. 151] Mr. Kunzig: And Riley is spelled—

Mr. Riley: R i l e y.

Mr. Kunzig: Where were you born?

Mr. Riley: I was born in Idaho Falls, Idaho, 1914.

Mr. Kunzig: Your present address is what?

Mr. Riley: Route 2, Rockville, Md.

Mr. Kunzig: Could you give the committee a brief résumé of your educational background?

Mr. Riley: Yes, sir.

Mr. Velde: May I ask that the press photographers take their pictures and then please desist so that we have a clear picture of the information. Proceed.

Mr. Riley: My elementary education took place in a rather wide variety of grade schools on the west coast. My

father was a civil engineer, did a good deal of traveling, and I went to school in Idaho Falls, Phoenix, and Portland, Oreg., where I graduated from grade school. I started high school in Spokane, Wash., in 1928, graduated in 1933, I believe it was. I then went to the junior college, Spokane Junior College, where I worked my way through 2 years, at which point I spent a year in a laboratory as an assistant bacteriologist and then went to the University of Washington where I hoped to complete my scientific education in biochemistry. Soon after going to the University of Washington I was married, and our family started coming along. I was forced to leave school, although I continued working and attending part-time classes, though I never received any degree at the University of Washington or elsewhere, although I subsequently took night courses at George Washington University in Washington, D. C., although I have never received any advanced degree.

Mr. Kunzig: Thank you, Mr. Riley. Could you now give the committee a brief résumé of your employment background, the main points?

Mr. Riley: Yes, sir.

After graduating from the junior college, it was impossible to continue on at the university immediately, and so I had an opportunity of working for a year in a clinical laboratory in Spokane, Wash., which was my home, in order to learn some of the procedures and techniques of clinical and bacteriological laboratory procedure. There was no remuneration to this job, but it did give me a year's experience in a laboratory. From that point I went to the University of Washington where I worked at various odd jobs in a service station, hamburger shop, in the Commons, washing dishes, a variety of jobs which enabled me to stay near the campus where I could attend occasionally classes.

I did have one research appointment which—in which I studied fermentation in biochemistry on the University of Washington campus.

At about this point my father invited me to come back to Spokane and join him in a building project with the general thought that working a couple of years on that I would be able to return to school on a full-time basis. He unfortunately died of coronary soon after we started, and

I was unable to carry on the building enterprise which he had started, so I took a job in defense industry, first as a carpenter, and then I obtained a job as a draftsman with the United States Army Engineers, which I think I had 7 or 8 months, but I was—

[fol. 152] Mr. Moulder: Can you give us the date of that employment, approximate date?

Mr. Riley: Yes, sir. It was approximately the date Mr. Williams gave you from November—is that 1941?

Mr. Kunzig: 1942.

Mr. Riley: 1942, and rather than continuing on to the period he indicated when I went to the United States Public Health Service, I had actually resigned from that job in the early spring of 1943. I believe it was about the 1st day of May.

I had decided that I must get back into a laboratory at any cost, even without having completed my formal university training, so I applied at a number of cereal plants and hospitals in the general area, but because I did not have a degree, I was not eligible for any of them. I did attempt to get in the Medical Corps of the Army at this time, but for the same reason I was ineligible, so I decided to employ the good old-fashioned American method of doing something about it, so I hitchhiked to the east coast, thinking that with the large industries and the laboratories on the east coast that I would be able to find a spot of some kind in a laboratory where I could perhaps learn by experience and get back into the field of my original choice and interest.

It was at this point that I resigned from the Army Engineers and hitchhiked to the east coast.

One of my first destinations had been Johns Hopkins University in Baltimore, but in stopping in Washington, thumbing through a phone book, I noticed the National Cancer Institute and decided to go out to Bethesda to see what might be available.

I applied for a job, I was introduced to some of the members of the staff, told them my background, my ambitions, and at the moment, at that time, there was a ceiling on personnel because of the war, but I was given a great deal of encouragement that a possible opening might occur, so I went from there to a number of pharmaceutical houses,

other places, and had one or two job offers, at which point I realized that there would be laboratory work available some place in the East, so I returned to Spokane, also by the thumb, hitchhiking. I disposed of my property and packed up my family and my belongings and returned East, driving out, and we stopped in Washington. I inquired at the Cancer Institute, and they had been holding a job open for me. One of the technicians had become pregnant and had joined her husband in California, which left an opening available under the ceiling. I started out in this job right at the bottom with my feet in front of the sink washing glassware, and that was the beginning of my employment in the United States Public Health Service in the National Cancer Institute.

Mr. Velde: May I interrupt, Mr. Riley. I am sure all the members of the committee realize the important work that you have done in the line of cancer research. Can you tell us just what your particular job was more specifically?

Mr. Riley: Yes, sir. I started out as a laboratory technician. I was intrigued. I was, I suppose, passionately devoted to the laboratory concept and science, and particularly the problem of cancer, and so I worked long hours, 14 or 16 hours a day, Saturday and Sunday. In addition to my regular duties, I interested myself in learning and doing a little preliminary amateur exploration and investigation, and I stumbled on to one or two techniques which in [fol. 153] terested my superiors. On the basis of this I was promoted and permitted to pursue one of these discoveries on a full-time basis, on the assumption that it might develop into something of importance to cancer research.

This happened to be a chromatographic method for separating viruses from tumors such as occur in chickens and certain forms of animal tumors.

This had never been accomplished before, and it excited some interest in the scientific world, particularly in the cancer field.

As a consequence of this and its successful development and publication of papers, I gradually advanced step by step until on October 22 of 1953 I was an independent investigator, GS-11 level. I think I was respected by my colleagues, and I was treated as an equal. I was permitted to

deliver scientific papers at conventions. I had by this time a total of approximately 20 publications to my credit and had something of a name for myself in the field of cancer research.

Mr. Velde: Certainly you are to be commended in this. I suppose you realize that that isn't in the field of our duties as far as our committee is concerned, but I think it is very interesting to learn just exactly what you did contribute to the great cause which the cancer research people are investigating.

Will you proceed.

Mr. Kunzig: I want to make one thing clear for the record. You are not a physician, is that right?

Mr. Riley: That is true.

Mr. Kunzig: Not a medical physician?

Mr. Riley: That is correct. I am classified by the civil service people as a biologist, among other things.

Mr. Kunzig: Now, Mr. Riley, the committee is in possession of information concerning a Communist Party group which existed in the Washington State area, Spokane, Seattle, Washington State, in the period in which you were living there.

We feel that you can give us—

Mr. Velde: Just a minute, please. You have requested that you not be telecast, is that right?

Mr. Riley: That is correct.

Mr. Velde: Are the lights objectionable to you?

Mr. Riley: No, sir.

Mr. Velde: Proceed.

Mr. Kunzig: We feel, Mr. Riley, that you can give us information concerning that group and its activities. We know, and you know, that in previous loyalty hearings you have denied any Communist activities on behalf of this group. Today before a committee of the Congress of the United States we wish to question you concerning this group and hope that you will give us full answers concerning its activities in the Washington State area.

Let me ask you first, have you ever been, to your knowledge, a member of the Communist Party?

Mr. Riley: I was a member of this parlor pink discussion group back in 1942, approximately, which certainly had

communistic overtones to it, and there is present at least one person who was an acknowledged Communist. The group primarily was composed of young people of college age, and it was, to all intents and purposes, essentially a discussion group, although there was a great deal of interest in communism, in Russia, and in retrospect it may very well have been an arm of the Communist Party.

Mr. Kunzig: Let me make that clear. You feel in testifying here today that in retrospect this group in Washington State this group may very well have been an arm of the Communist Party?

Mr. Riley: Some variety; yes, sir.

Mr. Moulder: How old were you at that time?

Mr. Riley: I was, I would say, 26 or 27, and I had just broken off my college effort at the University of Washington and had returned to Spokane. Most of the people in this group were about my same age, I would say between 25 and 30.

Mr. Kunzig: You said at least one person in the group, you feel now, was a member of the Communist Party. Who was that person, and will you describe this person to the committee?

Mr. Riley: This person's name was Barbara Hartle.

Mr. Kunzig: How do you spell that?

Mr. Riley: I think it is H-a-r-t-l-e.

Mr. Kunzig: Is that the same Barbara Hartle who was just convicted under the Smith Act on the west coast?

Mr. Riley: I don't happen to know any of the details about that.

Mr. Kunzig: I believe, Mr. Chairman, that that is correct. Would you continue, please.

Mr. Scherer: Pardon just a minute. Has our investigation disclosed that it is the same Barbara Hartle who was convicted under the Smith Act?

Mr. Kunzig: That is correct, Mr. Scherer.

Mr. Scherer: All right.

Mr. Riley: Mrs. Hartle was a somewhat older woman than the rest of us. I would imagine she was, perhaps, around 40 or 45.

I met her on the first occasion when my wife and I were invited to attend this discussion group.

As a matter of fact, I believe the invitation came through an art class that my wife and my daughter were attending in Spokane. The first occasion was purely a social affair, a party, with a great deal of stimulating conversation. This Mrs. Hartle had apparently originated this discussion group, and we were invited—I don't know whether it was through her or through one of the art teachers at the art center to attend one of these discussion sections, which we did. They were very stimulating. At the time I was quite dissatisfied with my personal state, as far as a job and being out of school and so forth, this was an emotional and intellectual outlet.

The young people were very enthusiastic, and the conversation by and large was very stimulating. We found this first discussion session quite enlightening, and this group then met perhaps every month for the following approximately a year. We attended a substantial portion of these discussion sessions, some of them being held at our home; some of them at the homes of other members of the discussion group.

Mr. Velde: Mr. Riley, may I say that this has been a common technique of the Communist Party of the Soviet Government to infiltrate the thinking, Soviet Communist Party ideologies, and I do hope that you will go completely into what was studied, what was talked about, so that this committee might have the information that is so very vital to the defense of our national security.

[fol. 155] Mr. Riley: I agree with you, Mr. Chairman, and I think that this particular group was an ingenious opportunity for Communist philosophy and thinking to be disseminated among impressionable and idealistic young people. As I say, the group of young people that attended this were kids who had had some college, who had a church and religious background, who had ideals, who had this instinctive feeling of the brotherhood of man that had been taught to them in your schools, in our churches, and they were right for the propaganda that was rampant at this time, particularly with the Communists being able to take advantage of the fact that Soviet Russia was now our ally,

and it was national policy to support this relationship of an alliance with Russia. I think this was quite understandable and that this would have happened irrespective of what political party had been in power. I mean, it seemed that at the time I received the impression, without knowing too much about the intricacies behind this thinking, that our very survival was based upon continuing friendship and good relations with Russia and a prevention of them abandoning the allied cause and joining forces with Hitler, and I remember the proclamations of the Governor of the State of Washington, a Republican, Governor Langley, who actually had an "aid to Russia Day."

I remember that one of the main individuals, Thomas Lamont, had written an editorial in the New York Times which said that the wartime alliance with Soviet Russia transcended all concepts of religion and politics.

Mr. Kunzig: Let me ask a few questions right here.

Mr. Velde: Just a moment, Mr. Counsel. Do you agree with me that there have been a lot of great Americans of both political faiths that have been used by the Communist Party to further their cause in one way or another?

Mr. Riley: Yes, sir. I think a great many loyal and intelligent Americans, particularly during this wartime period when there was a vast surge of hope that perhaps this mysterious controversial country was really going to join the family of nations in a democratic and friendly fashion—I think there was a great deal of hope that this would occur, and I think the fact that it has demonstrated for all to see the treacherous and unreliable nature of world communism.

Mr. Velde: The information that we have in our committee files, our reports, bears your statement out very definitely.

Proceed, Mr. Counsel.

Mr. Kunzig: Mr. Riley, you stated earlier that this group you feel now was in one form or another an arm of the Communist Party. Isn't it true that you very definitely were one of the leaders of this group?

Mr. Riley: A leader only in the sense of leading discussions on 2 or 3 occasions and in perhaps being quite enthusiastic and doing a good deal of talking.

Mr. Kunzig: In favor of the Communist ideology?

Mr. Riley: No, sir; not in favor of the Communist ideology; in favor with the wartime alliance with Russia, in favor of friendship with Russia under the circumstances. I did have an active built-in curiosity about all things, and I was willing to objectively scrutinize and examine what the Communists had to offer, philosophically, economically, and otherwise, and we kicked these things around with [fol. 156] utter abandon, and I am sure that some of us went temporarily overboard.

Mr. Kunzig: Do you think you went temporarily overboard?

Mr. Riley: At the time I don't think so. In retrospect, I think we all went overboard.

Mr. Kunzig: How would you say you went overboard? In what way? Describe it to the committee, please.

Mr. Riley: Well, we were all in the process of growing up, emotionally, politically, intellectually.

Mr. Kunzig: You were 26?

Mr. Riley: Yes. Some of us mature later than others. I am sorry to report.

I think that we, along with a great many others, swallowed a lot of the propaganda, pro-Communist propaganda, both foreign and domestic.

Mr. Velde: Who was responsible? I mean, to whom did you look up to give you advice in this situation that you found yourself?

Mr. Riley: It would be extremely difficult to assign the responsibility.

Mr. Velde: I realize that.

Mr. Riley: I suppose really the responsibility was ours, although in a sense it was a responsibility, perhaps, of the entire world, perhaps of our own national policy at the time, but I am sure that if the situation were to be repeated, that it would, by necessity, have to be the same thing.

The tragedy of it has been that it did not turn out as men of good will had hoped that our wartime allies—our hopes that democracy and the Atlantic Charter and the United Nations would solve the problems of the world obviously has not come to pass.

Where you can establish responsibility, Mr. Chairman, I really do not know.

Mr. Moulder: Mr. Chairman, may I ask a question?

Mr. Velde: Mr. Moulder.

Mr. Moulder: You say you were solicited by a Mrs. Hartle?

Mr. Riley: Yes, sir.

Mr. Moulder: To participate in these discussions?

Mr. Riley: That is correct.

Mr. Moulder: Can you give us some more information as to how she approached you?

Mr. Riley: It was quite indirect. The invitation came to me from my wife. The invitation to my wife came from her art instructor, and I assume that the invitation to the art instructor came from Mrs. Hartle or one of her friends.

Mr. Moulder: To do what?

Mr. Riley: First of all, to attend a social occasion.

Mr. Moulder: Where was that?

Mr. Riley: The social occasion was at somebody's home in Spokane, on the north side of town, the exact location of which I don't recall. It was a typical party. There was dancing, music, singing, with a great deal of discussion in little knots, discussion of the war, philosophical discussion. On this first occasion I don't think there was any particular political discussion beyond the problems of our war situation.

[fol. 157] Mr. Moulder: And approximately how many people attended that meeting or social occasion?

Mr. Riley: I would say perhaps 20 or 30.

Mr. Moulder: Was Mrs. Hartle there at that time?

Mr. Riley: I believe she was, yes, sir.

Mr. Moulder: Was that the first time you met her?

Mr. Riley: Yes.

Mr. Moulder: Then thereafter at what point or place did you meet to hold the discussions that you have mentioned in your testimony?

Mr. Riley: The next occasion, as I recall, was a regular discussion group held at a private home, and I believe the person's name was Paul Scott. This was an evening session, we discussed problems of the war. The exact nature of this escapes me. This must have been fully 12 years ago.

Mr. Moulder: Yes, of course. Did you always meet at the same place or were the meetings held at different locations?

Mr. Riley: No, sir, they were held at various places, but always in private homes of some member of this discussion group.

Mr. Moulder: How did you receive notice of such a meeting, the intentions of holding such a meeting?

Mr. Riley: As I recall, it was primarily by telephone, although at times penny post cards were sent out.

Mr. Moulder: Did someone act as a chairman or official leader of the group?

Mr. Riley: Well, during the early stages of it I think Mrs. Hartle handled most of this.

Mr. Moulder: She would notify all of those who attended the meetings of the time and place such a meeting was to be held?

Mr. Riley: Yes, sir.

Mr. Moulder: On any of those occasions do you recall ever having heard a speaker from any other place or city or representing any other organization to appear before that group to speak to them?

Mr. Riley: No, sir, I think that it was just among ourselves. Now, from time to time Mrs. Hartle did bring in people. It seems to me on one occasion she brought in somebody from the Minneapolis area over in Idaho. As I recall, they were union people. Their names I forget if I ever knew them.

Mr. Moulder: At any of the meetings do you recall any Communist Party literature being distributed among those who were attending the meetings? That is, from the official Communist Party headquarters or any place where they sent out such literature?

Mr. Riley: No, sir; there was no official literature as such, although there were pamphlets. I remember one in particular that at the time I did not consider communistic literature, but in retrospect it undoubtedly was Communist propaganda. It was something about Soviet power written by the Archbishop of Canterbury. Somebody reviewed this publication, and it was distributed, and as a

matter of fact, this group even sent it out to some of the ministers in town.

Mr. Moulder: Did any of the literature bear the imprint of having been published by the Communist Party?

Mr. Riley: Not overtly.

Mr. Scherer: Would you yield?

Mr. Moulder: May I proceed. Do you recall ever having paid any membership dues to anyone at any of those meetings, [fol. 158] or did you pay any dues as a member of the organization referred to in your testimony which you have designated as possibly pinkish?

Mr. Riley: Yes, sir; we did pay in money. Ostensibly this was for the purchase of phonograph records and of a record player which we bought. Part of these occasions were purely social at which there was a good deal of singing, folk songs and that type of thing. We did as a group purchase this record player and records, and we anteed into the kitty for refreshments and that sort of thing. Some money was paid in on a regular basis, but to the best of my knowledge not in the form of dues as such. However, I can't be sure that some of it was not employed for that purpose.

Mr. Moulder: You say this organization consisted of a total membership of about how many people?

Mr. Riley: Well, it fluctuated. I would say it varied from 6 or 8 maybe to 18 or 20, perhaps not more than that.

Mr. Moulder: Do you remember their names?

Mr. Riley: I remember some of them. I have already given some of them to the loyalty boards.

Mr. Moulder: You are going into that, are you?

Mr. Kunzig: Yes, sir.

Mr. Scherer: Mr. Chairman.

Mr. Velde: Mr. Scherer.

Mr. Scherer: Mr. Moulder asked you about this Communist Party literature. Isn't it a fact, Mr. Riley, you had large quantities of this Communist Party literature in your home?

Mr. Riley: No, sir.

Mr. Scherer: It isn't?

Mr. Riley: No, sir, it is not.

Mr. Scherer: You spoke of these records. They were Russian records; were they not?

Mr. Riley: As I recall, these were albums of folk music. One of them was a—

Mr. Scherer: Wasn't it Russian folk music?

Mr. Riley: There was some Russian folk music among them. There was a record called Meadowland, and there may have been others. It seems to me it was a United Nations type of music. Some of it, I recall one of them was the Australian marching song, Waltzing Matilda, the Almanac players recorded some of it.

Mr. Kunzig: I was just going to mention them. I am glad you brought up the Almanac Singers. They were a group of people who entertained and were at some of these meetings, is that correct?

Mr. Riley: On one occasion only that I attended.

Mr. Kunzig: Do you know Woody Guthrie, G-u-t-h-r-i-e?

Mr. Riley: I met him on one occasion. It was a social evening, yes, sir.

Mr. Kunzig: At one of these meetings?

Mr. Riley: A meeting in the sense that it constituted part of this same group.

Mr. Kunzig: Woody Guthrie, did you know him to be a member of the Communist Party?

Mr. Riley: No, sir.

Mr. Kunzig: Mr. Chairman, there has been now public testimony by Harvey Matusow before this committee to the [fol. 159] effect that Woody Guthrie was a songwriter and member of the Almanac Singers and a member of the Communist Party.

Mr. Velde: Isn't it true, Mr. Counsel, that we have had considerable evidence concerning the Almanac Singers, and that they are a Communist group?

Mr. Kunzig: That is correct, Mr. Chairman.

Mr. Velde: Proceed.

Mr. Kunzig: You mentioned about this group being an arm of the party. You were asked, Mr. Riley, in your loyalty hearing—and let the record state that you have frankly and honestly and forthrightly given us copies of your loyalty hearing records; you furnished them yourself and asked that we read them and study them, and that we have

very definitely done—in this record, Mr. Riley, you were asked:

Unfortunately you don't answer my question, Mr. Riley. Was this discussion group in anyway affiliated with the Communist Party?

You answered:

I think not.

The question was:

This is something you should know. I would like to have a yes or no answer on that question.

Your answer was:

I would say no.

You said nothing at that time about the group being an arm of the Communist Party or anything. Is this a change of heart or further foresight on your part or hindsight, or could you explain that to the committee?

Mr. Riley: Well, I have learned a good deal about this group in the course of the loyalty investigations, and certainly in retrospect there is a great deal of evidence to indicate that it certainly had a communistic attachment of some sort. At the time I was participating in it I did not believe this, even though there was an acknowledged Communist present.

Mr. Kunzig: I have here a copy of your application for Federal employment. There are two Form 57s as they are known. One was in 1943, and one was in 1953. The first is marked "Riley Exhibit No. 1" for identification; the second is "Riley Exhibit No. 2," for identification.

I hand you your first application, a photostatic copy of it, dated August 2, 1943, and under question No. 17 it says:

Do you advocate or have you ever advocated or have you ever been a member of any organization that advocates the overthrow of the Government of the United States by force and violence?

You answered just a plain "No."

Under the next part it says, "If so, give details under item 45," and under item 45 you just left it blank.

I hand you this "Riley Exhibit No. 1" for identification and ask you if you can explain to the committee why you answered in that fashion that question when you filled out your application for Federal employment?

Mr. Riley: Because I felt positively, and I know in my mind and in my heart that I was never a member of the Communist Party. I come from a breed of Scotch and Irish that do not take kindly to regimentation and indoctrination and subversion such as we associate with this [fol. 160] organization. The only answer I could give to a question like that is "No." I have been willing, am now willing, to tell this committee all that I know about this discussion group which I participated in and take full responsibility for my acts in this regard. I never signed a Communist Party card. I never considered myself a member of the Communist Party.

However, if in the eyes of this committee or any other group this constitutes an arm of the Communist Party or the Communist Party and my participation in it for a brief period of my life over a decade ago constitutes Communist Party membership I have no objection to that interpretation except for the inaccuracies of the implication.

(At this point Representative Morgan M. Moulder left the hearing room.)

Mr. Velde: Just a minute. Mr. Riley, I want to say now to disabuse your mind of any idea that you might have that this committee finds whether a person was a member of the Communist Party or any other subversive group. It is just not true. We don't have that function to perform. The committee was set up back in 1938. The purpose was to ascertain information concerning subversive activities, report to the Congress for remedial legislation. We will not in your case, so long as I am chairman of this committee, and I am sure the other members will agree with me on that, make any finding as far as your associations with the Communist Party are concerned. We are out to ask

you for information, and we do appreciate the fact that you are willing to give that information.

Mr. Scherer: May I just ask a question?

Mr. Velde: Mr. Scherer.

Mr. Scherer: Did you ever write any one a letter telling them that if they were interested in joining the Communist Party that you would send someone to see them? Did you ever write such a letter?

Mr. Riley: No, sir, I did not. I am aware of the fact that a housekeeper that worked for us on one occasion has made the claim that I had offered to contact Communists for her.

(Representative Morgan M. Moulder returned to the hearing room at this point.)

Mr. Riley: In Washington this statement was made and this letter was alleged to have been written when I was on the west coast when I had never been east of Cheyenne, Wyo.

(At this point Representative Harold H. Velde left the hearing room.)

Mr. Riley: It was a physical impossibility, I had never been to Washington, D. C., I never knew anyone there, let alone any Communists.

Mr. Scherer: Now that you mention this housekeeper what was her name?

Mr. Riley: Ila McGee, and I understand her married name is now Markle.

Mr. Scherer: You never suggested to her at any time that she join the Communist Party.

Mr. Riley: No, sir, I did not.

Mr. Scherer: Did you ever discuss with her your activities in the Communist Party?

Mr. Riley: She was present in our home on several occasions when this discussion group met, and there was a [fol. 161] good deal of discussion of Russia in regard to the war effort and possibility even of philosophical communism. She was Irish, and I was Irish—we used to kid her a lot. She undoubtedly could have gotten the impression that we were a bunch of Communists because of the

very free and forthright way in which we spoke, but I never asked her to join the Communist Party or anything closely related.

Mr. Scherer: Didn't the discussions go so far that on one occasion, at least, you said that if she would join the party, that when the revolution came because of your influence you would see that she was taken care of? Did you ever make a statement like that?

Mr. Riley: No, sir, I never did. I understand that this statement originated in her mind in the last few years after reading the Chambers book. She started thinking back about these discussion groups and this talk of Russia and the Russian folk music, and I am sure she magnified these things out of all proportion in her mind.

Mr. Scherer: You just did say that from your discussions in the home you felt that she would have reasonable grounds to believe, as you put it, that you were a bunch of Communists?

Mr. Riley: I think to a naive individual who had never been to school, had never attended a college bull session that that might very well have been a conclusion, especially in thinking about it years later within the framework of the times at the moment.

Mr. Scherer: But you feel that from what happened in the home that a person of her education and background could conscientiously come to the conclusion, as you put it, that you were a bunch of Communists?

Mr. Riley: Yes, sir, I think that would be a fair assumption. For example, if I may just add one comment, I think we used to kiddingly say something like, "Ila, come the revolution we will all be housekeepers or maids," something of that sort. We used to kid her a good deal.

Mr. Scherer: Those words were used then?

Mr. Riley: In a facetious way.

Mr. Scherer: In a facetious way?

Mr. Riley: Yes, sir.

Mr. Scherer: She may not have understood them to be used in that way, is that what you mean?

Mr. Riley: I thought she did at the time because there was a twinkle behind them; but in retrospect she may have put other interpretations on them.

Mr. Scherer: If she says the words were used, she would be telling the truth.

Mr. Riley: Yes, sir, I think so, in that regard.

Mr. Kunzig: Mr. Riley since we have already said and put in the record that a great deal of the hearing testimony in your various hearings was given to the committee by yourself, and since you had copies of this, you, of course, are cognizant of the fact that in these loyalty hearings one of the main things, so to speak, against you, was material which came from informants of the Federal Bureau of Investigation; is that right?

Mr. Riley: Yes, sir.

Mr. Kunzig: You are aware of the fact, and you know this isn't just a Mrs. Markle or Mrs. Jones or Brown or Green but the Federal Bureau of Investigation, is that right?

[fol. 162] Mr. Riley: Yes, sir.

Mr. Kunzig: I want to hand you a copy of an exhibit we had a moment ago, Riley Exhibit No. 2 for identification, which is your 1953 form for application for Federal employment which you refilled out at that time, a year later. At that time when asked if you are now or ever have been a member of the Communist Party, you said "no," and whether you are now or ever have been a member of any organization seeking to overthrow the Government, etcetera, you said "no."

Down on the space for detailed answers where it specifically tells you to answer in detailed form, that is left completely blank.

I hand you this and ask you why, in possession of the knowledge that you are giving to us today about this group which you say you presume was an arm of the Communist Party, you didn't feel fit to mention this on your form 57?

Mr. Riley: Yes, sir. I felt fully fit to mention it exactly as I am telling it to you today. As a matter of fact, I filled out an attachment spelling out the details of this discussion group to the best of my ability, and I consulted my attorney in Washington on this, and he said by no means to include anything like that. "You were not a member of the Communist Party, and the answer is 'no'—period." On his advice I did not include the attachment No. 5, but I

have it in my possession, and I would be glad to turn it over to you.

Mr. Scherer: You mean before you filled out this application for employment with the United States Government, you consulted a lawyer?

Mr. Riley: No, sir. After I filled it out, I had an attachment, and I took it to him and showed it to him, and he said, "By no means include any of that," and so I refilled it out again and handed it in as is here.

Mr. Scherer: There was some question in your mind as to how that question should be answered, so you consulted a lawyer about it; is that right?

Mr. Riley: Yes, there was, and when I filled it out on the first occasion, I put an asterisk in this spot, with an attachment. I told about my associations with this discussion group. I was then advised not to do that, and I didn't.

Mr. Scherer: But that particular form was never filed with the Civil Service Commission, is that right?

Mr. Riley: No, sir, it was not.

Mr. Scherer: You destroyed that form?

Mr. Riley: No, sir, I think I still possess it.

Mr. Scherer: You still have it?

Mr. Riley: And I would be glad to turn it over to this committee.

Mr. Scherer: It was never filed. After consultation with counsel, you prepared an entirely new application?

Mr. Riley: That is correct.

Mr. Kunzig: Mr. Chairman, sir, I would like to offer at this time Riley Exhibits Nos. 1 and 2 into evidence.

Mr. Scherer: They may be so received.

(Form 57 dated August 2, 1943, marked "Riley Exhibit No. 1," for identification, and Form 57 dated 1953, marked "Riley Exhibit No. 2" for identification were received in evidence.)²

[fol. 163] Mr. Kunzig: I have a document marked "Riley Exhibit No. 3," Mr. Riley, which I believe you have seen in one form before. This is a photostatic copy of a transfer card, a Communist Party transfer card, which is used when

² Retained in committee files.

someone moves from one part of the country, from one Communist group, to another. This photostat has the name "Vernon Riley" on it and is a transfer of this Vernon Riley from the professional branch, section 7, county of Spokane, city of Spokane, State of Washington, to Rockville, Md., which is the place I believe you, yourself, said you moved to.

I pass this Riley Exhibit No. 3 for identification to you and ask you if it lies within your knowledge whether that is a Communist Party transfer card with relation to you?

Mr. Riley: No, sir, I do not. There is no mention of Communist Party on here whatsoever, just a transfer card. It says, "Transferring member retain this part." My name is on here, but it is not my signature. I have never seen the original of this. I categorically say that I never requested it, and I never received it. As to an explanation of its existence, I have none other than perhaps maybe this is Mrs. Hartle or her counterpart's method either of keeping track of people whom they consider likely prospects or conceivably might even have been synthesized by the confidential informant that gave some of the other information regarding this discussion group.

Mr. Scherer: May I see a copy of that, Mr. Counsel?

Mr. Kunzig: Yes.

Mr. Riley, one of the other things on this transfer card, says "Dues paid to and including December 1943." Can you explain that statement?

Mr. Riley: No, sir.

Mr. Scherer: Mr. Counsel, did we not have evidence identifying this card as a Communist Party—

Mr. Kunzig: I am coming to that.

Mr. Scherer: Oh, you are coming to that. I am sorry.

Mr. Kunzig: The card has a number on it, I wish the record to show, transfer No. 11904, Vernon Riley.

At this time, Mr. Chairman, I should like to ask respectfully that the witness be asked to step aside and sit in one of the seats back there, and I wish to recall to the stand the committee investigator, Mr. Williams, just for a brief moment.

Mr. Williams, would you please take the stand you have already been sworn, and you have identified yourself, and we shall continue your testimony.

TESTIMONY OF GEORGE C. WILLIAMS—Resumed

Mr. Kunzig: You have in your hand a copy of this alleged Communist Party transfer card, is that correct?

Mr. Williams: Yes, sir, I do.

Mr. Kunzig: Did you have occasion to get a further identification on this specific photostat of this specific card?

Mr. Williams: Yes, I did.

Mr. Kunzig: Would you give the committee the benefit of the information which you received?

[fol. 164] Mr. Williams: On March 9, 1954, I contacted Mrs. Markward, who is a former Federal Bureau of Investigation informant. I displayed the card to Mrs. Markward, and Mrs. Markward gave me a signed, sworn statement, which I would like to read at this time, sir.

Mr. Scherer: You say the statement is from whom?

Mr. Williams: Mrs. Markward, who was an informant for the Federal Bureau of Investigation for 7 years.

Mr. Scherer: She has testified on a number of other occasions before congressional committees and also before the courts with reference to Communist Party activities during the time that she was an undercover agent for the FBI, has she not?

Mr. Williams: Yes, sir, that is correct.

(The statement reads as follows:)

SILVER SPRING, MD., *March 9, 1954.*

I, Mrs. Mary Markward, make the following statement to Mr. George C. Williams, who has identified himself to me as an investigator for the House Committee on Un-American Activities. I make the statement of my own free will. I was a member of the Communist Party from May 1943 through the year 1949. During this period I held numerous offices in the Communist Party. One of these positions was membership director and treasurer for the District of Columbia. In this capacity my duties brought me in contact with the handling of Communist Party transfers of members from other cities and the filling out of Communist transfer cards. I have studied the transfer card which has been displayed to me by Mr. Williams which

was made out in the name of Vernon Riley and for the sake of identity have initialed the card on the back. I am not personally acquainted with Vernon Riley, but based on my experience in the Communist Party, I know this to be an official transfer card of the Communist Party. Also based on my experience in the Communist Party I have never known nor heard of anyone being issued a Communist Party transfer card who was not a member in good standing of the Communist Party.

That is signed by Mrs. Markward.

(Representative Harold H. Velde returned to the hearing room at this point.)

Mr. Kunzig: Do you have any further questions, Mr. Chairman?

Mr. Velde: Just a moment, please. Do you have further questions?

Mr. Scherer: Not at this point.

Mr. Velde: Mr. Moulder?

Mr. Moulder: I have no questions.

Mr. Kunzig: No further questions.

Mr. Velde: With that the witness is again excused, and the committee will be in recess for 10 minutes.

(Whereupon, at 2:20 p. m., the hearing was recessed, to reconvene at 2:40 p. m.)

(The hearing reconvened at 2:45 p. m.)

Mr. Velde: The committee will be in order. Proceed, Mr. Counsel.

Mr. Kunzig: Mr. Riley.

TESTIMONY OF VERNON TODD RILEY—Resumed

Mr. Riley, could you give the committee, please, searching your memory, the names of all the members whom you can remember who belonged to this group that we have been referring to today?

Mr. Moulder: Mr. Chairman.

Mr. Velde: Mr. Moulder.

Mr. Moulder: I believe, in fairness to the witness—of course before he was recalled, Mr. Williams read a state-[fol. 165] ment into the record made by Mary Stalcup Markward concerning this transfer card that you examined a few moments ago. I would like to ask you just one or two questions concerning that. First, probably, in all fairness, we should say this is in the nature of a hearsay statement from a woman who has made a statement in the presence, of course, of our investigator in whom I have complete faith and confidence.

She identified this card as being the transfer card, photostatic copy of which has been presented to you. I am impressed by your testimony and the straightforward manner in which you have given all explanations to every question that has been propounded to you. There is one thing, one point, that puzzles me—you state you have no knowledge about the card or transfer or anything in connection with it, but how would they know that you were moving to Rockville, Md.? Can you give us any explanation on that?

Mr. Riley: A possible explanation. Several of the people in that group knew about our migration to the east coast. One in particular, [Mrs. Genevieve] Eddings who had gone to school with my wife. She had corresponded with her after we arrived in Rockville, and the date on this card apparently is several months after we had arrived on the east coast. In other words, it would have been impossible to have had a transfer card at the time that this date is on here because we were already in Rockville, Md.

Mr. Moulder: And had been there how long?

Mr. Riley: I believe we had been there about 6 months. As I recall—can you give me the date, sir? December something.

Mr. Kunzig: We will get it for you in just a minute.

Mr. Scherer: December 1943.

Mr. Riley: We arrived in Rockville the 1st day of August 1943 and moved into this house at 906 Lewis almost immediately. This transfer card apparently originated on the part of somebody back in Spokane and 6 months after we had moved here. That presumably would require a request for a transfer to some other group. This never oc-

curred. If the person that originated this card had done it on my authority or request, they should have, I should think, some written document to that effect. But I never made such a request; I never received the card. The only thing I have seen about it is this photostat, and of course I, myself, have provided this photostat or the original photostat to this committee for their scrutiny and examination.

Mr. Scherer: Of course the FBI isn't all powerful. They may not have found your application. That is possible.

Mr. Riley: Yes.

Mr. Moulder: You first identified a Communist Party card that was presented to you, a membership card, which has a signature on it, but you state that is not your signature, as I understand your testimony?

Mr. Riley: Well, also I think it is not a Communist Party card. It is just a transfer stub.

Mr. Moulder: I thought there was a card presented a few moments ago with a signature on it?

Mr. Riley: No, sir.

Mr. Scherer: It is not a signature.

Mr. Riley: There is no signature on it.

Mr. Moulder: I thought you said it wasn't your signature.

[fol. 166] Mr. Riley: That is true; it is not. Someone has printed my name upon that card, and you will note that it says "Transferring member is to retain this portion."

Mr. Moulder: The date that appeared on this transfer card is December 24, 1943.

Mr. Riley: Yes, sir; that is about 12 months after we arrived in Maryland.

Mr. Moulder: That is all, Mr. Chairman.

Mr. Velde: Proceed, Mr. Counsel.

Mr. Kunzig: Now, could you kindly give to the committee the names of all the members whose names you recall who belonged to this group with you?

Mr. Riley: There is Mr. and Mrs. Eddings. Mrs. Eddings is the one I mentioned who had gone to school with my wife.

Mr. Kunzig: What is Mr. Eddings' first name?

Mr. Riley: Harold.

Mr. Kunzig: How do you spell Eddings?

Mr. Riley: E-d-d-i-n-g-s.

Mr. Kunzig: His wife's first name?

Mr. Riley: Genevieve.

Mr. Kunzig: Genevieve Eddings?

Mr. Riley: Yes.

Mr. Kunzig: Would you tell the committee everything you know about the Eddings and their membership in this group?

Mr. Riley: I believe the first time I met them was when I returned to Spokane and from Seattle. Mrs. Eddings was a friend of my wife, having gone to school with her. They visited us at our home, and it was shortly after this that we were all invited to this discussion group. We bought a house in the neighborhood not far from where they lived and visited them socially from time to time. These were both very idealistic young people. She had been interested in social service. I think she was a social worker. Mr. Eddings had worked in Spokane—

Mr. Scherer: Mr. Chairman, he just asked for the names, and I don't think we should go into a complete history of these individuals.

Mr. Velde: In the interests of saving time, maybe you could be a little more brief in your explanation.

Mr. Scherer: I think the question asked for the names of these individuals.

Mr. Kunzig: You know, don't you, from your loyalty hearings that at the loyalty hearings you recalled—it came out that the Eddings had been identified by Bureau informants as members of the Communist Party; is that correct?

Mr. Riley: Yes.

Mr. Kunzig: Did you know them to be members of the Communist Party at that time?

Mr. Riley: No, sir, I did not.

Mr. Kunzig: Were they, as you described, to your knowledge just enthusiastic young people?

Mr. Riley: They were at the time that I knew them. You see, I left Spokane and rather early. I believe that they continued on in this discussion group. The thing may have been perpetuated for several years after I left. What hap-

pened after February or March of 1943 I have no personal knowledge of.

[fol. 167] Mr. Kunzig: Who else besides Mr. and Mrs. Eddings were members?

Mr. Riley: There was an art teacher by the name of Carp, which I think stands for Carpenter.

Mr. Kunzig: Do you remember any further name or identity, Miss or Mrs. Carp?

Mr. Riley: It was a Mr. Carpenter. He was an art instructor at, I think, the Inland Empire Art Center. There was another art instructor by the name of Davis.

Mr. Kunzig: Do you know the first name of Mr. Davis or where he was an instructor?

Mr. Riley: I think his name was John.

Mr. Kunzig: Mr. John Davis?

Mr. Riley: Yes, sir.

Mr. Kunzig: Did he have any identifying addresses or office?

Mr. Riley: No, sir; he had a studio somewhere in Spokane at the time, and he worked at this PWA art center. He, very shortly after I met him, had joined the armed services, and I know he fought overseas. Likewise that was also true of Mr. Eddings who was wounded in the battle of the bulge.

There were several art students who came from time to time; a Jan Myers.

Mr. Kunzig: How do you spell that, J-a-n?

Mr. Riley: J-a-n. I think it is M-y-e-r-s.

Mr. Kunzig: Miss or Mrs.?

Mr. Riley: Miss.

Mr. Kunzig: Do you have any address or further identification of Miss Jan Myers?

Mr. Riley: No, sir; I have never kept track of these people or contacted them in the past 10 or 12 years.

Mr. Kunzig: Who else?

Mr. Riley: Oh, yes. There was Mr. and Mrs. Halliday who were also friends of the Eddings and who lived in that general area.

Mr. Kunzig: Do you know whether they were members of the Communist Party?

Mr. Riley: No, sir, I do not. It is my opinion that they were not.

Mr. Kunzig: Any others you can remember?

Mr. Riley: No, sir, not at the moment. There may have been other names that I have mentioned previously.

Mr. Kunzig: You do know, don't you, Mr. Riley, that in the loyalty hearings which have culminated in your recent dismissal, that charges were made that you were actually a member of the Communist Party and also that you attended various and numerous meetings of this group which was alleged to be a group of the Communist Party; that was in the charges, is that correct?

Mr. Riley: That is correct.

Mr. Kunzig: I believe you do know also, do you not, that these charges and the information based behind them came to a large degree from informants of the Federal Bureau of Investigation, that came out of the hearings, didn't it?

Mr. Riley: Yes, sir.

Mr. Kunzig: Do you have any reason to assume—we are interested here, of course, in getting at the truth—why informants of the Federal Bureau of Investigation would bring in information about yourself and the activities [fol. 168] of this group, alleged to be a Communist Party group, if it were not so.

Mr. Riley: No, sir, I do not.

Mr. Kunzig: Do you feel in anyway that you were duped in this situation?

Mr. Riley: Yes, sir, I think that all of the youngsters that were involved in this group were duped in the sense that we were fed a bill of goods at a very propitious time. As a matter of fact, I think that is the essential vicious aspect of a discussion group of this sort, particularly during that period of time when the Communists had every opportunity to take advantage of fundamental patriotic feelings in supporting our Government program against the axis; it was certainly to the advantage, I see in retrospect, of the Communists to further the cause of our participation in the war, but they were able to exploit, I think, good, honest, decent, patriotic feelings of people in this regard as well as exploiting and taking advantage of their

instinct for the concept of human brotherhood and prosperity, peace.

Mr. Moulder: Mr. Chairman.

Mr. Velde: Mr. Moulder.

Mr. Moulder: The witness, I think, has gone into that explanation very thoroughly in the beginning of the testimony. However, in order to correct the wrong impression that may appear from the record, as I understand, the FBI has not and did not prefer charges against you of being a member of the Communist Party. As I understand the function of the FBI is that they do not prosecute or prefer charges. They merely present testimony they may have gathered in connection with the hearings that were being held in connection with this subject.

Mr. Riley: Yes.

Mr. Kunzig: Let me make myself clear, Mr. Moulder, if there is any confusion, that the charges, of course, were actually preferred by the agency of the Government under which Mr. Riley worked, but the information, as I said before, came from informants within the Federal Bureau of Investigation.

Mr. Riley, while you were out there, and you said you worked at that time for a different part of the Federal Government, would you state again what that was?

Mr. Riley: I worked as a civilian for the United States Army engineers.

Mr. Kunzig: In that position, Mr. Riley, did you ever have any occasion to handle classified information?

Mr. Riley: Not really. There were some buildings, wind tunnels, or buildings which were intended to be used for repairing bombsights and that sort of thing. They had certain safety devices, I think security devices, in the construction of them, double doors and that type of thing, which might have been considered confidential, but certainly not anything secret whatsoever.

Mr. Scherer: When was it that you worked for the Army engineers? What period did that cover?

Mr. Riley: That was November 1942 to the spring of 1943, about May.

Mr. Scherer: That is about the time you left to go to Rockville, Md.?

Mr. Riley: Yes, sir.

[fol. 169] Mr. Scherer: Then subsequent to that time you took up your position with the Government in the District of Columbia?

Mr. Riley: Actually there was an interval of 3 or 4 months there traveling back and forth.

Mr. Scherer: I understand that.

Mr. Kunzig: Now, Mr. Riley, on March 23 and 25 of 1949 before the Federal Security Agency Loyalty Board, when you were asked this question about classified information, you said:

Well, I was a civil service employee working for the United States engineers at Galena. I was classified as principal draftsman. My duties were drafting, engineering, architectural and the writing of specifications for Army installations. A portion of this work, I think, is considered classified. Some of the drawings that I worked on, installed utilities for, were marked as secret or confidential.

Are you changing that testimony today?

Mr. Riley: No, sir. I think I just stated that some of the buildings—that is raw, crude construction—

Mr. Scherer: Let me interrupt. Is that testimony you gave before the Loyalty Review Board true?

Mr. Riley: Yes, sir, except "secret" and "confidential" places an entirely erroneous concept on this.

Mr. Scherer: You used those words, though, did you not?

Mr. Riley: I presume I did if they are there.

Mr. Kunzig: May I go on, Mr. Chairman? You said, "Do you want me to go into details on this type of work?" And the person interrogating said "No." The question went on to say, "In other words, was some of the material you were working on with the United States Army engineers classified as being secret work?" You answered "Yes, sir." "Question, What is the type of work you were doing, plans and specifications, open to anybody?" You said "No."

"Were the plans guarded so to speak?"

"Obviously I think anything that is labeled confidential or secret would be guarded."

Mr. Scherer: Certainly we didn't gather that impression from the testimony you gave here just a few minutes ago, Mr. Riley—at least I didn't.

Mr. Riley: Well, the only thing at this entire installation that was secret or confidential was the construction of one of the buildings intended to repair bombsights or something of the sort. The blueprint which described this building may have been labeled at the top "confidential." I didn't work actually on this building except in drawing up specifications for the plumbing or for the hardware or for the lumber that went into it. I did have access to the drawings as a part of my duties, but I think that the implications that are being made here are quite improper and inaccurate.

Mr. Scherer: The implication is only drawn from the sworn testimony that you gave as just read to you by Mr. Kunzig.

Mr. Riley: Let me point out that this was simply an air depot installation where they were to store things, it was an airport where presumably some repairs were going to be done. My duties in this were simply to sketch in the plumbing or write the specifications for the materials that went into it, and on occasion I probably worked on the drawings involving the bombsight repair building which is confidential only because they had a double door on it for a security or safety device.

[fol. 170] Mr. Velde: Mr. Riley, don't you agree that if that information which you possessed would come into the hands of a foreign power whose avowed purpose is to overthrow our form of government by force and violence, if necessary, that it would have been a dangerous thing to our internal security?

Mr. Riley: Perhaps it would, but it couldn't have been in safer hands, I assure you, Mr. Chairman. I may have been involved in a philosophical discussion group, but I happen also to have been born in this country, and my children and my father and my father's father, back to 1640, and I have as deep a feeling regarding the security of our country as any man present in this room, I assure you.

Mr. Scherer: I don't think the chairman is questioning that. I don't think that has been raised.

Mr. Velde: Of course I didn't ask you that. But I think in view of your statement I should ask you categorically whether you were approached by anyone, whether you ever did transfer any of the information which you had—

Mr. Riley: I will be glad—

Mr. Velde: Just a minute, please—which you had within your knowledge to anyone that might have been an agent or representative of a foreign government?

Mr. Riley: Yes, sir. I can answer that categorically that I did not, I would not, and if anyone had approached me on this, I would have immediately reported them to the proper authorities.

Mr. Moulder: Mr. Chairman, may I interject a statement at this point? It is my understanding that during the war or during the construction of military buildings or installations that they are all marked confidential and secret, even though they are passed out among all persons who may want to bid on the jobs or are engaged in the construction work.

Mr. Riley: Yes, sir, I think this was just a precautionary label that was put on any drawing that had anything to do with a building which might conceivably have a security angle involved in it subsequently. I think these would only be confidential after the building was constructed and there were bombights or something of value inside it. Then it would perhaps be hazardous, but during their construction it was certainly not of any consequence.

Mr. Kunzig: Mr. Riley, you said you would have reported various things to the Government. Did you, upon any occasion, at that period of time report the activities of this group, the meetings of this group which you, yourself, have said could possibly be considered an arm of the Communist Party, to any group such as the Federal Bureau of Investigation or any other Government group?

Mr. Riley: No, sir, I did not. At the time I did not consider them subversive or improper in any way. As a matter of fact, the entire tone of this group was one of patriotism; one of our main concerns was the defeat of the Axis. Every

member of the group, even this lady Communist herself, were against the Nazis.

Mr. Kunzig: You call her a lady Communist. This is the person whom we have already stated to you—although apparently it did not lie within your knowledge, that she has just been convicted as a violator of the Smith Act.

Mr. Riley: Yes.

[fol. 171] Mr. Kunzig: Which is the act, as we all know, concerning the working and teaching the overthrow of the Government by force and violence.

Mr. Scherer: May I interrupt? Weren't all Communists at that time vitally interested in the defeat of Germany because Germany was fighting Russia?

Mr. Riley: Surely, surely.

Mr. Scherer: The party line changed in 1939 with the Hitler-Stalin pact, didn't it?

Mr. Riley: Right.

Mr. Kunzig: In conclusion, Mr. Riley, the net total of testimony is, you wish this committee to believe that although at that time you saw nothing about this group that was in any way Communist, as you looked back upon it, the benefit of hindsight and so forth, you now feel that perhaps it could have been considered an arm of the Communist Party?

Mr. Riley: Yes, sir.

Mr. Kunzig: I would like to offer into evidence, Mr. Chairman, the document marked "Riley exhibit No. 3" for identification which is the transfer card, photostat, with the same Vernon Riley on it.

Mr. Velde: Without objection it will be admitted in evidence.

(Transfer card was received in evidence as Riley exhibit No. 3.)³

Mr. Scherer: Let me ask you a question, Mr. Counsel, about this transfer number right above Vernon Riley's name, No. 11904, do your investigations disclose whether that was the transfer number of the transfer or was supposed to be Riley's number in the Communist Party?

³ Retained in committee files.

Mr. Kunzig: The transfer number, Mr. Scherer.

Mr. Moulder: Mr. Chairman.

Mr. Velde: Mr. Moulder.

Mr. Moulder: Did you consider the discussion group that you have referred to in your testimony as being a group which was organized by Mrs. Hartle?

Mr. Riley: Well, I became associated with this group after it was already in operation, so I am not positive about its origin, but from her general sparkplugging of it I assumed that it was initiated by her and it was perpetuated in the sense of notifying people of this meeting place and so forth.

Mr. Moulder: At that time did you know whether or not she was an active member and a party worker for the Communist Party?

Mr. Riley: Yes, she made no bones about it. On one occasion, several months after I had been attending, she made this statement.

Mr. Velde: Do you have anything further, Mr. Counsel?

Mr. Kunzig: Not for this witness, Mr. Chairman. We have other witnesses on this case.

Mr. Velde: Do you have anything further?

Mr. Scherer: I just want to ask one question. Isn't it a fact that this group that you have been telling us about is, as is stated on this transfer card, the professional branch of section 7 of the Communist Party at Spokane, Wash.

[fol. 172] Mr. Riley: Not to the best of my knowledge and belief, Mr. Scherer.

Mr. Kunzig: Mr. Chairman, I would like to request, if I may, if you would so desire, that you issue to the witness the invitation and the opportunity, if he has any further information of this or if anything further comes to his mind or if it is refreshed by events or incidents later on, that he communicate with this committee and give that information to the committee.

Mr. Velde: Certainly I think counsel has stated it very well. I feel that you have given us some information, Mr. Riley, that is very valuable to our committee, but I would ask you to search your mind, search your soul for any further information you might have concerning your connections with the Communist Party or any Communist or-

ganization of any kind, and if you do learn in the future or feel in the future that you do have further information which would be of value to us, if you will get in touch with our counsel or one of our investigators at any time, and I thank you for your statement that you have made to us.

Mr. Riley: May I make just one comment, Mr. Chairman? In this connection, I have the feeling that this committee could strike an effective blow at communism if they would make full use of the natural, potent anti-Communist feeling that must exist in the minds of all of these people who have been duped in one way or another in the distant past by Communist propaganda and who now see so clearly—

Mr. Velde: Of course that is the whole scheme of the Communist Party to dupe people into their way of thinking.

Mr. Riley: Yes, but I mean there must be hundreds of thousands of people who were duped by their propaganda and who now are being persecuted but who are basically anti-Communists who could represent a stalwart bulwark in the fight against communism if they were given this opportunity.

Mr. Moulder: Mr. Chairman, I am sorry. I do have one question to ask the witness on this important question. After your moving to Rockville, Md., and after you sought and obtained employment in a Government agency, after that time up until the present time on any occasion did you attend any group discussions or have any connections or have any knowledge of any Communists?

Mr. Riley: No, sir, I have not. I think I can categorically say that in the past 10 years, ever since I have been at the National Cancer Institute I have not knowingly had contact with anything vaguely resembling a communistic type group, discussion group, never knowingly spoke or talked to a person even slightly bent in that direction. My entire energies have been absorbed in my cancer research.

Mr. Velde: Is there anything further, Mr. Counsel?

Mr. Kunzig: Not with this witness.

Mr. Velde: On the part of the members? If not, the witness is dismissed from the subpena. Thank you very much.

Will you call your next witness.

Mr. Kunzig: Mr. Chairman, at this stage with your permission, sir. I should like to read into the record the investigating staff's comments and material which has been gathered together on this case which is pertinent to this record.

Mr. Chairman, this is material directly from the loyalty files, and I would request permission to read this into the record at this time.

[fol. 173] Mr. Scherer: When you say loyalty files, you mean from this man's file in the executive branch of the Government, is that right?

Mr. Kunzig: Yes, sir.

Mr. Velde: Without objection you may proceed.

Mr. Kunzig (reading):

INVESTIGATING STAFF'S COMMENTS VERNON TODD RILEY CASE

The Committee on Un-American Activities has obtained an examiner's report on Vernon Todd Riley from the files of the Loyalty Review Board in Washington, D. C. Below are pertinent findings of said examiner. The facts on which this examiner arrived at his conclusions were available to the agency hearing board which conducted hearings early in 1953 clearing Riley. It should be noted, however, that said hearing was conducted prior to the issuance of Executive Order 10450, President Eisenhower's new security program.

These facts, Mr. Chairman, are direct analysis from the files.

Mr. Scherer: Analysis of the examiner?

Mr. Kunzig: Examiner's report.

Mr. Moulder: Those are his findings.

Mr. Kunzig: Yes, sir.

1. The evidence is well corroborated that the employee was a member of the Communist Party during the period 1941-43. Past Communist Party membership held by the employee is considered well-established.

2. The employee's membership in the Communist Party was active. He was an organizer of the Communist Party, and committee meetings of the party, including executive committee meetings, were held in his home.

3. He was ranked among the 'intelligentsia' of the Communist Party.

4. In 1943 steps were initiated to transfer his and his wife's membership in the Communist Party to his new Maryland residence, but these transfers were not completed on party records.

5. He entered on duty in his present agency in 1943, the year of the proposed transfer.

6. In 1943 at committee meetings of the Communist Party he showed great concern over the Government's investigation of communism.

7. Although the employee's wife's transfer, like his own, was never completed on the records of the Communist Party, his wife was subsequently reported to be a member of the Communist underground in the District of Columbia.

8. The employee has brought under question all statements which he has made in his own defense by falsely denying past membership in the Communist Party.

That is the opinion and result of the examiner of the Loyalty Review Board.

Mr. Scherer: Mr. Chairman, by way of explanation, I might say it was this examiner's report which came into our committee's hands from a confidential source that prompted the letter I read dated October 12 to the Secretary of Health, Welfare, and Education asking the Secretary for certain information with reference to Mr. Riley. At that time he was still employed, as you recall, in the Department.

Mr. Velde: Yes. Do you feel that this information which has been read into our record is entirely reliable?

Mr. Scherer: Oh, it comes out of the files of the executive branch. It is the examiner's report. It is the conclusions of the examiner's report. The report itself is much more lengthy.

Mr. Moulder: Of course I am making no objection to it going in at this time. However, I would make this comment: We haven't heard the testimony upon which this man's opinion and the conclusions he has drawn are based. It is a conclusion which he makes without our having the benefit or knowledge of the evidence which he may have heard or may not have heard that caused him to reach that conclusion.

[fol. 174] Mr. Velde: Certainly this is an opinion of apparently a loyalty review board which can make mistakes, too, I suppose, as we all do.

The committee will be in recess for 10 minutes.

(Whereupon, at 3:10 p. m., the hearing was recessed, to reconvene at 3:20 p. m.)

(The hearing reconvened at 3:20 p. m.)

Mr. Velde: The committee will be in order, please. Mr. Counsel, will you call the next witness.

Mr. Kunzig: Mrs. Lois Janet Hanson.

Mr. Velde: Will you raise your right hand, please. In the testimony you are about to give before this subcommittee do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Hanson: I do.

Mr. Velde: Be seated.

TESTIMONY OF LOIS JANET HANSON

Mr. Kunzig: Would you state your full name for the record, please, Mrs. Hanson?

Mrs. Hanson: Yes. My name is Lois Janet Hanson.

Mr. Kunzig: Where do you live, Mrs. Hanson?

Mrs. Hanson: I live in Spokane, Wash.

Mr. Kunzig: Would you give the committee a very brief résumé of your educational background?

Mrs. Hanson: I am a graduate of high school, and I have had a year and a half of college.

Mr. Kunzig: Was that out in Washington State?

Mrs. Hanson: Yes.

Mr. Kunzig: Could you give the committee a brief résumé of your employment background?

Mrs. Hanson: Yes. I have worked at a stationery store in Spokane. I worked for the Farm Credit Administration for a little while, and during the war I worked for the Defense Department at various airfields where my husband was stationed, and I have worked for an accounting firm in Boston and with a tractor and equipment company in Spokane, and that is about all.

Mr. Velde: I believe again it would be in the interests of everybody if the cameramen and photographers will take their pictures and then desist further throughout the hearing.

Proceed.

Mr. Kunzig: Did you ever know a Vernon Todd Riley?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: When was this?

Mrs. Hanson: It was during the year 1941, 1942 in Spokane.

Mr. Kunzig: You say that you know or knew a Vernon Todd Riley?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: Would you recognize him if you saw him again today?

Mrs. Hanson: Yes.

Mr. Kunzig: Would you look back into the room and see if you see Mr. Riley? Is that the Vernon Todd Riley you know?

Mrs. Hanson: Yes, it is.

Mr. Kunzig: Let the record show that the witness has identified the previous witness who just testified before the committee.

[fol. 175] Mr. Velde: Without objection it will so show.

Mr. Kunzig: Mrs. Hanson, let me first ask this. Hanson is your present name. Did you ever have any previous married name?

Mrs. Hanson: Yes, my name was Halliday.

Mr. Kunzig: Your name was Halliday?

Mrs. Hanson: Yes. H-a-l-l-i-d-a-y..

Mr. Kunzig: Your name is now Mrs. Lois Janet Hanson; is that right?

Mrs. Hanson: Yes.

Mr. Kunzig: Would you tell the committee under what circumstances you first came to know Vernon Todd Riley?

Mrs. Hanson: Yes. During this summer of 1941 my husband and myself moved to Spokane, Wash., from Wallace, Idaho, and about the same time friends of ours, the Eddings, Genevieve and Harold Eddings had moved to Spokane, and it was through the Eddings that I met Mr. Riley and his wife, Ruth, whom I had met previously, but just had met her.

Mr. Kunzig: Did you get in touch with the Eddings when you moved?

Mrs. Hanson: Well, yes, of course we saw each other almost immediately. We knew where each other was living, and within a short space of time Mrs. Eddings said that a study and discussion group was going to be formed in Spokane among friends and asked us if we would care to get in on it.

Mr. Kunzig: Now, Mr. Riley testified that a Mrs. Halliday and a Mr. Halliday belonged to this discussion group. Are you the Mrs. Halliday to whom he was referring?

Mrs. Hanson: Yes.

Mr. Kunzig: Now, would you describe how you first came to go to a meeting of this discussion group?

Mrs. Hanson: Well, shortly after Mrs. Eddings said that such a group was going to be formed, we met at the home of—I don't remember exactly at whose home the first meeting was held, but we were going to meet for the purpose of discussing world situations. It was going to be a kind of an intellectual discussion group.

Mr. Kunzig: Was it that kind of group as it finally got going?

Mrs. Hanson: It was that kind of a group at first, but as the meetings went on, more and more the discussion tended toward communism and in a favorable approach to communism, and it began to be quite predominant.

Russia was discussed as an exemplary type of a true democracy.

Mr. Kunzig: As a what type of true democracy?

Mrs. Hanson: A true type of democracy. The Soviet experiment was considered very exemplary, and communism was discussed as the logical outgrowth of the capitalistic form of government which was believed to be a decadent kind of a form of economic government, and it was dying of its many ills, that was the sort of a thing that was discussed, and as the meetings progressed and these discussion groups continued to meet, Marx and Engels, Leninism, dialectical materialism, that sort of thing, was discussed and probed into and studied and also the important role that Russia was playing in the present world struggle against fascism was talked about.

Mr. Kunzig: Was there a Barbara Hartle that attended these meetings?

[fol. 176] Mrs. Hanson: I don't recall a Barbara Hartle. I don't recall ever having met her.

Mr. Kunzig: Do you know Vernon Todd Riley?

Mrs. Hanson: Yes, I did. He, I would say, was one of the leaders of this group, one of the leading proponents of this type of discussion.

Mr. Kunzig: Did the group ever take any—shall I say—did it ever have any tie with specific Communist Party groups?

Mrs. Hanson: Yes. Sometime after these discussions had gone along and this particular line of thought had been pretty well explored, and everyone had more or less come to the conclusion that this was a sound philosophy, Mrs. Eddings approached me and said that the group was going to affiliate with the Communist Party and asked me what I thought, and I said that it was a good idea, and sometime later—I don't remember just exactly when—I have only one specific recollection of dues being collected.

Mr. Velde: Mrs. Hanson, in order to clarify my mind, you mentioned a few moments ago that Mr. Riley led these discussion groups, as far as Marxism and the study of communism generally was concerned.

Mrs. Hanson: Yes.

Mr. Velde: Will you be a little bit more specific if your memory will serve you and give us some more information regarding the teachings by Mr. Vernon Riley?

Mrs. Hanson: Well, it is rather difficult to look back and remember what the line of thought was.

Mr. Velde: Well, to the best of your recollection, of course.

Mrs. Hanson: Well, I would say that communism—as I said before, communism was considered to be the logical kind of an economic system, production for use.

Mr. Velde: How about dialectic materialism, have you ever understood that yourself?

Mrs. Hanson: No, I don't have the faintest idea just what it is.

Mr. Velde: Frankly I don't believe that I do, but did you have the feeling that Mr. Riley in teaching that subject had a pretty good knowledge of it?

Mrs. Hanson: Well, I think that Mr. Riley is an intelligent man, and perhaps he understood it better than some.

Mr. Velde: All right, proceed, Mr. Counsel.

Mr. Kunzig: Mrs. Hanson, you said that you at [redacted] on one occasion paid dues. Did you consider these to be Communist Party dues?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: I want to ask you for a very frank and honest impression: At that period of time, Mrs. Hanson, did you consider yourself to be a member of the Communist Party?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: You did?

Mrs. Hanson: Yes.

Mr. Kunzig: You considered this group to which you belonged and went to regular meetings a Communist Party group?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: Did the other people consider it that way, too?

Mrs. Hanson: Yes, I am sure that most of them did.

[fol. 177] Mr. Kunzig: People couldn't have participated in this and thought that it was just a luncheon group, a bull

session group, a friendly little bridge party group? It was known what it was, wasn't it?

Mrs. Hanson: Yes; I believe that almost everyone who went to these discussion groups for any length of time was aware of what it was, but I am not prepared to say that everybody who went to the discussion group was a member.

Mr. Kunzig: Would you say it was difficult to conceive of someone who went to these group meetings not knowing just what type of meetings they were?

Mrs. Hanson: No—at least I think that if anyone had gone to these meetings, they would have been aware that this group was very favorable to communism.

Mr. Kunzig: Now, you later became divorced from your former husband and married your present husband?

Mrs. Hanson: That is right. I do wish to say here, however, if I may, that these groups were always an informal type of group, and as far as I know, or I, myself, am concerned, they never became any more than just that—that is, they were never closed. They were informal, and they were, to a large extent, social, and a discussion sort of a thing, and then, as you say, in 1944 I was divorced from Mr. Halliday and remarried.

Mr. Kunzig: Now, when you became Mrs. Hanson, what was your next contact with Mr. Riley?

Mrs. Hanson: May I say that after I left Spokane and in May of 1942, I didn't see Mr. Riley again, and I wasn't contacted in any way by any member of the Communist Party, becoming affiliated with any group, I never heard any more about it, and then in November of 1946 my husband and I returned to Spokane, and sometime during the fall, I think, of 1952, I was approached at my home by a Government investigator regarding Mr. Riley, whom the gentleman said was employed by the Federal Government, and asked me if I knew him.

Mr. Kunzig: He asked you questions, did he, about Mr. Riley?

Mrs. Hanson: Well, he asked if I had known him. I said I had known him in this discussion group, and I hadn't seen him since.

Mr. Kunzig: Now, what was your next contact with this situation in 1953?

Mrs. Hanson: Well, early in 1953 I received a letter from the Loyalty Board of the—

Mr. Kunzig: Was that from Washington, D. C.?

Mrs. Hanson: Yes—the Department of Health, Education, and Welfare, in which they said that a hearing, a loyalty hearing, would be held regarding Mr. Riley, ask me if I could attend at my own expense, and I was unable to attend, and I furnished them with a statement in which I said that I had known Mr. Riley through a discussion group in 1941 and 1942.

Mr. Kunzig: Now, when did you next see Mr. Riley personally?

Mrs. Hanson: Well, Mr. Riley came to Spokane and within the next month, and he visited me at my home.

Mr. Kunzig: This was in 1953?

Mrs. Hanson: Yes. And he advised me that a loyalty hearing was to be held, and he said that my former husband had made certain allegations against himself which implicated me in the Communist Party.

[fol. 178] Mr. Kunzig: Now, by this time—this is some years after your activity in this group—how did you feel about this? Did you feel that you had been a member, or what was your mental attitude at this point?

Mrs. Hanson: Well, I was in a terrific state of mind naturally, and I think a mental block had been formed in my mind so that I was absolutely unable to actually face the truth any more.

Mr. Kunzig: You mean to face the fact that you had been in this Communist group?

Mrs. Hanson: Yes, sir. So much had been in the papers about the secretive nature of communism and so on, and of course looking back at that time I guess it wasn't secretive, but that fact escaped me, and of course a fear of even admitting to myself that this had been that kind of a group, due to the situation today, and Mr. Riley's attitude—he had an attitude of outraged incense; that this had been just a group of intelligent idealistic people, he said, that had been interested in the times, those times.

Mr. Kunzig: Did you ask him at this time when he came out to see you in Spokane and whether they had actually been Communist Party meetings?

Mrs. Hanson: Yes, I did.

Mr. Kunzig: What did he say to you?

Mrs. Hanson: I didn't get any confirmation. I got that it had just been a group of intelligent idealistic people, a kind of Christian endeavor society.

Mr. Kunzig: Did he say kind of a Christian endeavor society?

Mrs. Hanson: Yes. He asked for a statement in his behalf, and I complied.

Mr. Kunzig: In his behalf from you?

Mrs. Hanson: Yes, and I complied along these lines of thought that it had been a kind of idealistic bunch of young people interested in the times.

Mr. Kunzig: In other words, you are telling this committee now that at that time, with this mental block you just testified to, and gave a statement along the lines that Mr. Riley requested?

Mrs. Hanson: Yes.

Mr. Kunzig: Saying that this was just a discussion group?

Mrs. Hanson: Yes.

Mr. Kunzig: What is the next step in this series of events?

Mrs. Hanson: Well, in March of 1953 the hearing was held, and an unfavorable decision had been reached by the board, and I received a letter from Mr. Riley to that effect.

Mr. Kunzig: Did his wife at any time come to see you?

Mrs. Hanson: Yes. Shortly after this Mrs. Riley came out to Spokane, and she came with my former husband's testimony from this hearing, and that.

Mr. Scherer: Mrs. Riley brought a copy of your former husband's testimony?

Mrs. Hanson: Yes; I have it, and I read it, and of course I read that my former husband had testified that I had been a member of the Communist Party; that he had seen my Communist Party card in my purse, and I had no recollection of ever having had a Communist Party card. I haven't to this day. I don't believe I ever had one.

[fol. 179] Mr. Kunzig: At this time were you still unable to face the fact that these actually had been Communist Party meetings?

Mrs. Hanson: Yes, I really was.

Mr. Kunzig: You hadn't had the change of heart as yet?

Mrs. Hanson: No.

Mr. Kunzig: I see. Did you make a statement then?

Mrs. Hanson: Yes, she requested a statement.

Mr. Kunzig: This is another statement now?

Mrs. Hanson: Yes—denying the allegations in my former husband's testimony.

Mr. Scherer: Do you know where these statements that you made were to be used? Do you know where those statements were to be used?

Mrs. Hanson: I don't know that I did.

Mr. Scherer: That is, you say that first Mr. Riley got you to make a statement on his behalf, and then later on Mrs. Riley came out and exhibited to you the testimony of your former husband, and then you made a subsequent statement. Did they tell you what they were going to do with those statements?

Mrs. Hanson: Well, I knew that there was going to be a new hearing, and I supposed that they would submit those to the board.

Mr. Scherer: Both of these statements that you gave were subsequent to the time that you received a notice from the Government saying that there was to be a hearing and asking you to attend?

Mrs. Hanson: Yes, that is right.

Mr. Kunzig: Did you ever go to Washington and attend a hearing?

Mrs. Hanson: Yes. Within the next few days I received a telegram from a Mr. Reich.

Mr. Kunzig: R-e-i-c-h?

Mrs. Hanson: Yes, asking me to call him, which I did.

Mr. Kunzig: In what capacity was he contacting you?

Mrs. Hanson: He told me that he was the attorney for Mr. Riley in his new hearing, that he was going to be the counsel, and he advised me that certain lawyers in Washington had devoted themselves without fee, I believe, to taking the cases of people who were in this particular spot, and his words were, over the telephone, that I would be doing a great service if I would come and testify.

Mr. Kunzig: Did you go to Washington?

Mrs. Hanson: So I left that evening. Funds were furnished for me.

Mr. Kunzig: By whom?

Mrs. Hanson: I don't know who furnished the funds.

Mr. Kunzig: I see. Who gave you the ticket then?

Mrs. Hanson: There were funds left at the terminal—I mean at the ticket agent's office.

Mr. Kunzig: I see.

Mrs. Hanson: For me, and I left that night.

Mr. Kunzig: You do know they weren't given to you by the Federal Government?

Mrs. Hanson: No, I know that.

Mr. Kunzig: You arrived in Washington?

Mrs. Hanson: Yes.

Mr. Kunzig: Did you then testify?

[fol. 180] Mrs. Hanson: Yes, and if I may say, the night before the testimony, Mr. Reich came to the home where I was staying in Washington.

Mr. Scherer: What was his name?

Mrs. Hanson: Reich.

Mr. Scherer: That was Mr. Riley's attorney?

Mrs. Hanson: Yes—to go over the general proceedings of that kind of a hearing with me, and he talked about the general secretive nature of communism and how carefully Communist Party members were screened before they were accepted into the party, and he showed me a Communist Party card, and I knew when I saw it that I had never seen one before, and all of this combined led me to believe that my testimony, as I gave it the next day, was true.

Mr. Kunzig: Your testimony, as I understand, and having examined the records which you gave the next day was generally in favor of Mr. Riley to the effect that this was just a discussion group?

Mrs. Hanson: Yes.

Mr. Kunzig: What happened after you gave your testimony before the loyalty board?

Mrs. Hanson: Well, a general feeling of uneasiness persisted, I couldn't shake it off. I knew there was something that wasn't right, and the day following the hearing Mr. Riley and his wife and another couple asked if they could take me to a night spot in Washington.

Mr. Scherer: This was after the hearing?

Mrs. Hanson: Yes, it was after the hearing, and this feeling of uneasiness and fear and dread continued and finally in a private conversation I turned to Mr. Riley, and I put my hand over my mouth so it was private between us, and I said to him, "If I did have a Communist Party card, what did I do with it?" And he said, "Do you have any old Communist Party cards floating around any place?"

Mr. Kunzig: He asked you whether you had any old Communist Party cards floating around any place?

Mrs. Hanson: Yes.

Mr. Kunzig: Then what did you say to him?

Mrs. Hanson: Then I asked him, was it really a group of Communist Party people, was it really a Communist group, and he said yes, it had been.

Mr. Kunzig: You asked him whether it was really a Communist Party group you had been part of out in Washington State?

Mrs. Hanson: And is.

Mr. Kunzig: And his answer was yes, they were Communist Party meetings?

Mrs. Hanson: Yes.

Mr. Kunzig: He told you that personally?

Mrs. Hanson: Yes; and then of course I realized what a horrible situation it was, and I was absolutely sick, physically sick, is the way I felt, and I asked him why he would do such a thing, how he could have done it.

Mr. Scherer: You mean how he could have done such a thing to you?

Mrs. Hanson: No; how he could have concealed the facts, and he said that he felt that he had to for the sake of his family and his children, and he wanted some way he could serve humanity, and he had found this need through his cancer research, that he hadn't thought about this sort of thing for years.

[fol. 181] Mr. Kunzig: Did he ever tell you when he and his wife had gotten into the party?

Mrs. Hanson: Yes; he mentioned something about his having gotten into it in Seattle.

Mr. Kunzig: Prior to coming to Spokane?

Mrs. Hanson: Yes.

Mr. Kunzig: Did this event awaken you from your own mental block that you testified to a few moments ago?

Mrs. Hanson: Yes; yes, it did.

Mr. Kunzig: In what way?

Mrs. Hanson: Well, of course I had the facts, the incontrovertible facts. There was no question then in my mind. I saw exactly where things stood, and I felt—I went back to the home where I was staying, and I felt that I should do something, I felt I should go back to the board, but a sense of fear kept me from doing it, so I went on with a sense of guilt for quite a long while until Mr. Williams came to Spokane and in January, I believe it was.

Mr. Kunzig: In other words, when the committee investigator, Mr. Williams, came to you, you then revealed the entire facts?

Mrs. Hanson: Mr. Williams came to my home, and I spent the whole night by myself walking around thinking, and the next morning I went to his room at the hotel and furnished him with the facts which I have just now given you.

Mr. Kunzig: I have no further questions, Mr. Chairman.

Mr. Velde: Do you have any questions, Mr. Moulder?

Mr. Moulder: Yes, I have a question concerning the money that was left at the ticket office. Did you have any information that money would be left there for you?

Mrs. Hanson: Yes, Mr. Reich said that my transportation would be furnished, and there would be funds available at the ticket office.

Mr. Moulder: That was in a telephone conversation?

Mrs. Hanson: Yes.

Mr. Moulder: You do know then that the money evidently came from Mr. Reich?

Mrs. Hanson: Yes.

Mr. Moulder: At whose home did you stay in Washington?

Mrs. Hanson: At the home of my uncle.

Mr. Moulder: And then the conversation you had with Mr. Riley at the night club where he said something about a Communist Party group—where was that?

Mrs. Hanson: What was the name of it—

Mr. Moulder: Yes.

Mrs. Hanson: I am not sure, it is something like the Blue Fox or something like that. I think out on Wisconsin Avenue.

Mr. Moulder: The Silver Fox.

Mrs. Hanson: Silver Fox?

Mr. Moulder: Yes. That is a highly respectable restaurant in Washington, I do want to ask you this question: You referred to the discussion group meetings, and then mention was made that the group was going to be affiliated with the Communist Party. Do you recall who made that statement?

Mrs. Hanson: Yes; Mrs. Eddings.

Mr. Moulder: Mrs. Eddings made that announcement at a meeting?

Mrs. Hanson: No, she told me that the group was going to affiliate.

[fol. 182] Mr. Moulder: Then what action was taken thereafter that convinced you or led you to believe that it was thereafter affiliated with the Communist Party?

Mrs. Hanson: The only positive proof I have of that is the fact that money was taken up, dues were collected.

Mr. Moulder: Were receipts given or cards issued?

Mrs. Hanson: I never received any receipt or any card.

Mr. Moulder: The point I am trying to make clear is, after notice was given to you by Mrs. Eddings that it was going to be affiliated with the Communist Party, what action was taken or what change was made in the character of the meetings that proved to you that it was then a different kind of group, that is, affiliated with the Communist Party?

Mrs. Hanson: Well, only from my personal, my personal, involvement, knowing by then that it was a Communist Party group.

Mr. Moulder: Did you pay the dues regularly thereafter?

Mrs. Hanson: No, I have a recollection of only paying dues once actually in my mind.

Mr. Moulder: That was the first time that you paid dues, after the announcement was made by Mrs. Eddings?

Mrs. Hanson: Yes.

Mr. Moulder: That it was going to be affiliated with the Communist Party?

Mrs. Hanson: Yes.

Mr. Moulder: Did other speakers come or other visitors attend the group meeting thereafter which had not been before attending the meetings?

Mrs. Hanson: I can't recall whether the group changed ostensibly or not in its membership. I can't remember anybody except the Rileys and the Eddings over a period of time. I can recall people who were in it to begin with, but it is just completely blank in my mind who all the people were.

Mr. Moulder: What statements or evidence can you give us that the character of the meetings changed or that you actually became affiliated with the Communist Party?

Mrs. Hanson: Only that Mrs. Eddings said that the group was going to affiliate with the Communist Party.

Mr. Moulder: But the meetings continued just as they had before?

Mrs. Hanson: As far as—

Mr. Moulder: Same discussions, same subjects were discussed as prior to the statement made to you by Mrs. Eddings?

Mrs. Hanson: As far as I could tell; as far as I could tell.

Mr. Moulder: I believe that is all, Mr. Chairman.

Mr. Kunzig: May I ask, from the contents of the meetings and the contents of the discussions, your testimony stands as you gave it a moment ago, and you considered it to be Communist Party meetings, and you considered yourself at that time to be a member of the Communist Party?

Mrs. Hanson: Yes.

Mr. Kunzig: No further questions, Mr. Chairman.

Mr. Velde: Mr. Scherer.

Mr. Scherer: I just might say this, Mr. Chairman, I have been informed that Mrs. Hanson has been under a great mental strain, and I think the committee wants to thank her for her testimony and for the service she has rendered in this particular case.

[fol. 183] Mrs. Hanson: Thank you.

Mr. Velde: Yes, Mr. Scherer. Let me say, too, and I think I can say this on behalf of my colleagues here, that

we certainly do realize the strain that you have been under and realize the mistake that you made.

(Representative Morgan M. Moulder left the hearing room at this point.)

Mr. Velde: I want to say for my colleague who just left, I am sure no one in the room means to cast any reflections on any restaurant in Washington by the outburst of laughter here a few moments ago. Mrs. Hanson, you have rendered a very patriotic service to your country in helping us to obtain information concerning the activities of the Communist Party which has been defined by authorities all over the country as a clear and present danger to our national security, and you are now dismissed with the committee's thanks.

Call your next witness.

Mr. Kunzig: Mrs. Marvin Markle.

Mr. Velde: Raise your right hand, please. In the testimony you are about to give before this subcommittee do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Markle: I do.

Mr. Velde: Again I ask that the cameramen take their pictures as soon as possible so we might proceed.

Proceed, Mr. Counsel.

TESTIMONY OF ILA MCGEE MARKLE

Mr. Kunzig: Would you state your full name clearly?

Mrs. Markle: Mrs. Marvin Markle.

Mr. Kunzig: How do you spell that?

Mrs. Markle: M-a-r-k-l-e.

Mr. Kunzig: Marvin is M-a-r-v-i-n?

Mrs. Markle: Yes.

Mr. Kunzig: What is your present address?

Mrs. Markle: Route 4, Box 559, Stockton, Calif.

Mr. Kunzig: You have come here to testify from Stockton, Calif.?

Mrs. Markle: Yes, I have.

Mr. Kunzig: Mrs. Markle, would you give the committee a brief résumé of your educational background?

Mrs. Markle: I went through high school is all.

Mr. Kunzig: Through high school?

Mrs. Markle: Yes.

Mr. Kunzig: Where was that?

Mrs. Markle: Fargo, N. D.

Mr. Kunzig: Would you give us a brief résumé of your employment background, where you have worked and what type of jobs?

Mrs. Markle: Well, I haven't worked too much. I have never been in very good health.

Mr. Kunzig: You are a mother now of how many children?

Mrs. Markle: Four children.

Mr. Kunzig: Would you give us a brief résumé of the employment when you worked at the job?

Mrs. Markle: I worked for my father in a furniture store, and I have done housework at various times, and I have always been more or less home with my people before I got married.

[fol. 184] Mr. Kunzig: Did you ever have occasion to have any connection with the family of Vernon Todd Riley?

Mrs. Markle: I worked for them for 4 or 5 months in their home in Spokane.

Mr. Kunzig: You worked for them for 4 or 5 months in Spokane?

Mrs. Markle: Yes, in Spokane.

Mr. Kunzig: Would you know Vernon Todd Riley if you saw him again?

Mrs. Markle: Yes, I would.

Mr. Kunzig: Would you look around this room and see if you see Mr. Riley in the room?

Mr. Velde: Would you rise?

Mrs. Markle: Yes.

Mr. Kunzig (indicating): Is that the Vernon Todd Riley that you knew?

Mrs. Markle: Yes.

Mr. Kunzig: Is that the Vernon Todd Riley in whose house you worked?

Mrs. Markle: Yes, it is.

Mr. Velde: Let the record show that the witness has

identified the Vernon Todd Riley who testified here previously today.

Without objection it will so show.

Mr. Kunzig: Mrs. Markle, describe how you first came to work in the home of the Rileys?

Mrs. Markle: Well, I went to Spokane and to get war work, but upon taking a blood test my blood was in such poor condition they suggested that I not try to work in any lengthy jobs such as 8 hours strictly hard work, so I decided rather than to go back I would take housework, and so I applied in the local newspaper at the Riley home for this position of taking care of their 3 children, and they accepted me, and that is the way I happened to go to work there.

Mr. Kunzig: After you began working in the Riley home did it come to your attention in any way concerning their, shall I say, political activities or their attitudes concerning world affairs?

Mrs. Markle: Yes, there was no doubt in my mind from the very beginning, until I left, that both she and he were very pro-Communist and they were very interested in the Communist Party, and that they were very strong Communists in their belief.

Mr. Kunzig: You lived at the home?

Mrs. Markle: Yes. I lived there all the time.

Mr. Kunzig: So you were with them pretty constantly for this 4-month period?

Mrs. Markle: Yes.

Mr. Kunzig: Do you have any specific memory of incidents which occurred which tend to give you this belief?

Mrs. Markle: Well, he had a study on the second floor of his home, and we would go up there only upon his invitation, but we would go up there, and we would argue communism, he and I, and we would argue, for instance, about the—I asked him if they were so humanitarian, if the Communists were so humanitarian, why did they go in and do what they did to the Finnish people, and he would explain that they did that to defend their territory, the entrance of their territory.

Mr. Kunzig: You are referring to the Russian invasion of Finland?

[fol. 185] Mrs. Markle: Yes. He said it was very unfortunate for the Finnish people that they happened to be in the way, but the Russians had to take care of their own, and I told him it was very inhuman treatment. We argued continually most all the time.

(Representative Morgan M. Moulder returned to the hearing room at this point.)

Mr. Kunzig: Did he ever ask you in any way to attend any of these meetings?

Mrs. Markle: Well, yes he did. He asked me if I would like to be interested in the Communist work, and he said that eventually he would have a position in the Communist Party where he could be of some help to me in the Communist work.

Mr. Kunzig: Mr. Chairman, we have very many other questions from this witness. I think this might be a good time for a brief recess.

Mr. Velde: The committee will be in recess for 10 minutes, until 4:10.

(Whereupon, at 4 p. m., the hearing was recessed, to reconvene at 4:10 p. m.)

(The hearing reconvened at 4:17 p. m.)

Mr. Velde: The committee will be in order, please.

Mr. Scherer: Before we proceed with this witness, Mr. Chairman, it has been called to my attention that the testimony of Mr. Riley was in error when he referred to an editorial in the New York Times by Mr. Thomas Lamont. It has been pointed out to me that it was not an editorial in the New York Times by a Mr. Lamont to which Mr. Riley referred but was a letter to the New York Times by Mr. Lamont which was published in the New York Times and it was not an editorial. Mr. Lamont is not an editor and was not an editor of the New York Times.

Mr. Velde: I thank the gentleman for making that statement in order to keep the record as clear and correct as we possibly can. Any other statements that are inadvertently made by witnesses will be taken by this committee and we will make every attempt to clarify the record and get the truth.

As I have mentioned before, the committee is a committee of the United States House of Representatives to investigate subversive activities and report to Congress for remedial legislation. We are not a court of law in any sense of the word. We are out for information concerning the Communist Party, and we want to stick as nearly as possible within that jurisdiction which we have.

Will you proceed, Mr. Counsel.

Mr. Kunzig: Mrs. Markle, did you attend any meetings, discussion group meetings?

Mrs. Markle: No, I never did.

Mr. Kunzig: Did you attend any meetings in the home of the Rileys?

Mrs. Markle: No, no.

Mr. Kunzig: Were meetings ever held in the home of the Rileys?

Mrs. Markle: Yes.

Mr. Kunzig: Would you tell the committee what you know about such meetings?

Mrs. Markle: Well, I usually would go out for the evening to a movie, or we had friends there, and I never attended the meetings, and then I would come home in time, just about in time to help Mrs. Riley serve the lunch, and that [fol. 186] is the extent of the attending of the meetings that I had ever done.

Mr. Kunzig: Did Mr. Riley ever talk to you about communism?

Mrs. Markle: Oh, we had hours and hours of discussion on the merits of communism, and he would explain to me his theories, and I, of course, would ask him questions. We had many, many hours of discussion on communism.

Mr. Kunzig: Did he ever talk to you about the Communist Party's attitude toward the family and children?

Mrs. Markle: Yes, he had a theory that the state, as he called it, would set up an institution for small children and decide through psychiatric tests that each child would have a position in the state and thus be educated for that position, and each child would be taken from their home at a young age and get the full benefit of their education, that it would all be free education, and then in turn they

would become a member of the educational group or whatever these tests decide these children were adapted to.

Mr. Kunzig: Did he ever talk about developing a new Russia in the United States or anything of that nature?

Mrs. Markle: Yes; he never spoke of any of the Russians coming here, that it would all come about, as his favorite expression was—I would ask him, "How do you feel this is going to come about, all these wonderful changes that you talk about?" And he said, "Well, come the revolution." He didn't ever explain to me how the revolution was to come about, but that would be his favorite expression, "Come the revolution," as far as his getting the changes made in this country.

Mr. Kunzig: What about farmers, agriculture, land; did he discuss that with you?

Mrs. Markle: Well, his theory of the farmer, that according to the size of his family, if they were adapted to farming, that each member of the party would be given a certain plot of land according to the size of his family, and he would work this land and contribute to the state much like the rest of the educated people would do, I mean those of the educated group, and I said, "There is always a human element there that they don't do their work. They are Americans, and some of them won't be as good a farmer as they felt they would be." He said, "We will not have any relief agencies, so these people that will not work will be put some place where they will have to work and earn their living." That was his theory. He felt there would be no relief agencies, that if everyone did their share, there would be no need of relief agencies. Those that were too old to work or unable to work because of mental deficiencies, they would be eliminated.

Mr. Scherer: What do you mean, eliminated?

Mrs. Markle: Put away, killed, or—that was the idea that I got from his—the idea of eliminating the feeble-minded, and this would be brought about by a board who would judge whether these people were incapable of work or unable to work or not willing to work.

Mr. Kunzig: Mrs. Markle, you stayed at the Riley home for roughly 4 months or so?

Mrs. Markle: Four or five months, I am not sure.

Mr. Kunzig: When you left the Riley home, did you have any further contact with Mr. Riley in any way, and if so, when?

[fol. 187] Mrs. Markle: Well, at Christmas time I went home to North Dakota and I went to Washington, D. C. I have a brother there who called me to take care of his little girl while they worked. It was shortly after the New Year that I wrote to them and told them I was in Washington, having a wonderful time seeing the Capitol and things like that, and he wrote me and congratulated me on the fact that I was seeing all the country. Then he suggested that if I was to be interested in anything—in contacting anyone under C he would be glad to.

Mr. Kunzig: When you say under C do you mean under the letter C?

Mrs. Markle: Under the letter C.

Mr. Kunzig: He didn't write out the word?

Mrs. Markle: Just the letter C.

Mr. Kunzig: Who wrote you this letter?

Mrs. Markle: Mr. Riley, and that he would make me acquainted with anyone if I would be interested.

Mr. Kunzig: Did you ever answer that letter?

Mrs. Markle: No.

Mr. Kunzig: When did you next hear from Vernon Todd Riley?

Mrs. Markle: The following spring I went back to my folks in North Dakota and Mr. Riley was leaving the East going West to get his family. He had a position, I don't know what it was, but he had a position, and he was going back after his family and he stopped and called me at Fargo. He was between trains or something, I am not just sure about that, but he called me from the Waldorf Hotel and asked me would I come down and visit with him between trains or while he was waiting for transportation, so of course I went. I talked to him about his family to see how his children were because I had become quite attached to them, and he had some Communist literature there, and he was trying to explain to me, which I had in the meantime lost all interest in the thing, and he tried to explain to me some peace treaty that the Russians had made—I don't remember anything about it other than the facts that he had

made a peace treaty, and he was justifying this peace treaty by reading me quotations from these Communist magazines or small newspapers.

Mr. Kunzig: May I go back just a moment to this letter you received from him saying if you were interested in looking up anybody under the letter C to write to him and he would make you acquainted with some of them. What did you assume was meant by that?

Mrs. Markle: Under communism. If I were still interested or would like to discuss communism further, that was what I naturally assumed, that was what I assumed that he meant.

Mr. Kunzig: Mrs. Markle, you saw him in this brief stop, the train stop there—

Mr. Moulder: Where, I didn't get that clear?

Mrs. Markle: Fargo, N. Dak.

Mr. Moulder: You said the Waldorf Hotel?

Mrs. Markle: Waldorf Hotel in Fargo, N. Dak.

Mr. Kunzig: When did you next see Vernon Riley?

Mrs. Markle: Well, about 10 years later he came to my home in Spokane—Stockton, and he arrived there about 8:30 in the morning.

Mr. Kunzig: Why was that, Mrs. Markle?

Mrs. Markle: Well, he came, and he wanted to question me about why I—I went to the FBI myself and turned in [fol. 188] the information I knew about him some 2 years before that, and there was to be a hearing, and he came to ask me why I would testify against him since we had been good friends, and my explanation to him was that being a very brilliant man, which he was, that if he had the same mental attitude now as he had then, that he would be a menace to the country and to the work he was doing, and I felt—I didn't know where he was, but I felt that he would be in some important position since he was a smart man.

Mr. Scherer: When did you learn he was working for the Government?

Mrs. Markle: Not until about a year after I turned the information that I knew in. I turned that in, and then it was about a year later that the Federal Bureau of Investigation came to me seeking some more further information. I had told them just—they took a brief outline and filed it with their file.

Mr. Scherer: What was the outcome of this conversation which you had with Mr. Riley when he came and asked you why you gave that information to the Government?

Mrs. Markle: Well, we talked—he had parts of the previous hearing that I hadn't attended because they had sent me the money to come—the hearing board had sent me the money to come, but I didn't feel that I was—I didn't get the money until 3 weeks after the hearing. It had been lost in the mail somehow, and I didn't get the money, and so I didn't feel that I was going to appear, that they had felt it probably not necessary or something. I didn't have any idea why they hadn't called me, but I felt they weren't going to call me because I asked them to give me at least a week's notice to arrange the care of my children and they hadn't done this. I didn't know they had, but they hadn't as far as I was concerned, notified me.

Mr. Scherer: You say he brought you excerpts from the testimony of that hearing?

Mrs. Markle: From the previous testimony, yes.

Mr. Scherer: What conversation did you have about that testimony?

Mrs. Markle: Well, he would read parts of it, and then we could discuss the merits of each one, and then he would say, "I don't remember saying those things," and I would say, "You made a great impression on me, Vernon, at that time, and I remember distinctly," and of course his answer was usually, "Well, I don't remember these things," because he said he said a lot of things. Then he asked me why I did it, and I said that I felt it was my patriotic duty. There was no idea other than being a good citizen.

Mr. Scherer: What was the final outcome of that conversation?

Mrs. Markle: He asked me to sign a paper saying that I had never seen his Communist card, and I said, "Of course I will do that because I never saw your Communist card." Then he made out this—

Mr. Scherer: Did you sign such a paper?

Mrs. Markle: Yes.

Mr. Scherer: Who prepared that paper?

Mrs. Markle: Mr. Riley, because I am a very poor writer. That was the only reason why I didn't.

Mr. Kunzig: May I ask, did he write it or print it?

[fol. 189] Mrs. Markle: I think he printed it. I don't know. I was upset. I was 3 months pregnant with my baby and before the day was over, I was very upset and disturbed.

Mr. Scherer: How long a time did you spend with Mr. Riley at that time?

Mrs. Markle: He came at 8:30 and at 4 o'clock I signed these things for him and he asked if he might stay—

Mr. Scherer: He came at 8:30 in the morning and talked to you all day?

Mrs. Markle: Yes, until about 4 and he asked me if I would sign these papers for him, and I said "Yes." We discussed various points, which were some of them technically true, and when I tried to tell him, "Now that isn't exactly right," by that time I was very disturbed mentally and emotionally, and I wasn't well, and so I signed it simply because I was very disturbed.

Mr. Scherer: You said you signed one paper in which you said you had never seen his Communist Party card?

Mrs. Markle: Yes.

Mr. Scherer: That was true, wasn't it?

Mrs. Markle: That is right; I had never seen it.

Mr. Scherer: You say you never saw the card. What other papers did you sign?

Mrs. Markle: Nothing else.

Mr. Scherer: I thought you said you signed two papers?

Mrs. Markle: No.

Mr. Scherer: Is that all this paper contained that you signed?

Mrs. Markle: That I remember. As I say, I was very disturbed. I don't remember entirely the whole thing. That has been 2 years and I was going through quite an emotional problem myself at that time, and by 4 o'clock I was very upset because he told me I was ruining his life, and that if I hadn't told the truth, of course which I—this has been the truth all along, that he would be in a position to sue me.

Mr. Scherer: He would be in a position to sue you?

Mrs. Markle: To sue me.

Mr. Scherer: Was it after he told you he would be in a position to sue you that you signed the papers?

Mrs. Markle: Yes. Then he asked if he might stay to dinner and meet my husband—I was going with him at the time I lived with the Rileys and writing back and forth and I would tell them excerpts from his letters, you know, as a matter of friendliness and he wanted to meet my husband, so he stayed, and my husband took him in to the bus approximately 7:30 or quarter to 8, and he caught the bus to go to San Francisco, and he had a plane leaving San Francisco for Spokane, so he told me.

Mr. Riley: Mr. Chairman, could I ask a question at this time? I have the statement—

Mr. Velde: Will you confer, Mr. Riley, with us, after the hearing?

Mr. Riley: Yes, sir, except I have the statement which she signed, if it is of interest to the committee.

Mr. Kunzig: We have the statement, too..

Mr. Velde: If you will give us the statement after this witness' testimony, the committee will appreciate it very much.

Proceed, Mr. Counsel.

Mr. Kunzig: I have no further questions.

[fol. 190] Mr. Velde: The committee will be in recess for 5 minutes, and will come back to the offices, Mr. Riley, with the statement that you have?

(Whereupon, at 4:35 p. m., the hearing was recessed, to reconvene at 4:40 p. m.)

(The hearing reconvened at 4:40 p. m.)

Mr. Velde: The committee will please be in order.

While Mr. Riley was unable to furnish the original statement that we might introduce it into the record, I want to read the statement that he refers to at this time, as of March 7, 1953, dated at Stockton, Calif., to you, and ask whether or not it is the statement that you referred to a few moments ago in your testimony. It reads as follows:

To Whom It May Concern:

This is to say that I, Ila McGee Markle, knew Vernon T. Riley in Spokane, Wash., in 1942 and worked for the Rileys as housekeeper for 5 or 6 months.

The word "5 or 6" is written in pencil here.

During this time or at any time I never heard Mr. Riley admit, say, or state that he was a member of the Communist Party, nor to my knowledge did he ever solicit my membership in the Communist Party or any other person. He never stated to me that the Communist Party came first and that he would separate himself from his family to further the aims of the party, nor did he ever state that he planned to have an important part in the American Communist Party, that he never made any contacts with Communists in Washington for me or for anyone as far as I know. I make these statements of my own free will without coercion, intimidation, or persuasion to change any testimony which may have been attributed to me. This statement may be used by Mr. Riley if he should testify

and above this in the statement "if he wishes" is written in pencil—

before the board of inquiry on employee loyalty before the Federal Security Agency. I affirm that the foregoing is true to the best of my knowledge and belief.

Ila McGee Markle.

May I ask, Mrs. Markle, is this the statement you referred to in your testimony a few minutes ago as you recall it?

Mrs. Markle: Well, within a reasonable—I mean, what I wish to get across was there were technicalities of the statements, as I said before, that I tried to argue him out of, and he would say, "Well"—his answer would be technically true, and therefore that would put me in a position of—it was very likely part of that anyway is what I had signed, understand, and very likely, as I say, by that time I was so disturbed and upset, but when he says that he would not leave—at the time he said he would leave his family, it was not the same discussion as for—that we had about the Communist Party. He said that he would be willing to place his children in the hands of the Communists, but at the time—the technicalities are this, that at the other time I mentioned one time, I saw an article in a paper about a

man who had left his family, and I said to him, "I don't see how a man can do that," and he said, "I can easily understand that." So therefore the two combined, he didn't say at the time that he would leave his children in this particular discussion for the Communist Party because we were not talking about the Communist Party, but he said he would find it very easy to leave his family, walk out and leave them, and the discussion—the two together sounds technically untrue.

Mr. Velde: Let me get it straight. He did ask you to sign a statement?

[fol. 191] Mrs. Markle: Yes, yes.

Mr. Velde: Which, as you recall, was—was it typewritten or—

Mrs. Markle: He had handprinted it.

Mr. Velde: He had prepared the statement himself?

Mrs. Markle: Handprinted it because I asked him to. He asked me to write it, and I told him my penmanship was so poor no one could read it anyway.

Mr. Velde: All you did was to sign your name to the statement?

Mrs. Markle: Yes.

Mr. Scherer: You were living where at the time you signed the statement?

Mrs. Markle: Stockton, Calif.

Mr. Scherer: Did you have any children?

Mrs. Markle: One adopted girl 3, the twins are 6 now. I was pregnant about 3 months with the baby I have now, little baby.

Mr. Scherer: Did you know he was coming to your home that day?

Mrs. Markle: No, I had no idea. He drove up in a cab about 8:30. I was over making a phone call to my husband. He had left his equipment at home, and I was calling to ask him if I should bring it and when I looked out the door I saw the cab driving up. We live 6 miles out. I saw this cab driving up and I went out because it seemed to hesitate and I wondered who it was. We have a very small neighborhood, and he stepped out of the taxi and that is the first I had seen of him for 10 years, approximately.

Mr. Scherer: That was 8:30 in the morning?

Mrs. Markle: 8:30 in the morning.

Mr. Scherer: He stayed until your husband drove him back to the station?

Mrs. Markle: About 7:30 approximately.

Mr. Scherer: Did he leave your home at any time?

Mrs. Markle: No, no.

Mr. Scherer: Your husband came home at what time?

Mrs. Markle: He gets out of work about 6:30, gets home about 20 to 7.

Mr. Scherer: What time of day was it you signed the statement?

Mrs. Markle: About 4 in the afternoon.

Mr. Scherer: Before your husband came home?

Mrs. Markle: Yes.

Mr. Scherer: Had Mr. Riley left the house at any time before you signed the statement?

Mrs. Markle: No.

Mr. Scherer: Where did you have lunch that day?

Mrs. Markle: He and I had lunch in the kitchen.

Mr. Scherer: As I understand your testimony you talked about this all day?

Mrs. Markle: After talking about his family and various other subjects, and he told me about his brother and things like that, then we sat out in the back in the sunshine, it was a beautiful day, and we talked about it then and he asked me if I realized what I was doing, what harm I was doing him because of the embarrassment and the financial reverses that he would have to take, and then he said, however, "Would you please make this statement for me?" and he said, "If you appear, I will not use it. I would rather [fol. 192] have you appear, but if you appear, I won't use it," and I didn't appear at that time because the money was delayed in the mails.

Mr. Scherer: When was it, what time of the day was it, that he said, "I can sue you"?

Mrs. Markle: That was about 2:30. I am not sure definitely about these times, but it was between lunch and the time I signed it. I think I was getting dinner—lunch—at the time we were discussing it.

Mr. Scherer: What did you say your condition was when you signed it?

Mrs. Markle: I was approximately 2½ or 3 months pregnant.

Mr. Scherer: I understand that. You said something about your emotional state at 4 o'clock.

Mrs. Markle: I was very disturbed. We were having financial reverses and we just moved out into the country and our house is still about half done, and I was having this problem. My husband is not too well, and that was a problem, and so all in all—

Mr. Scherer: In your own mind did you believe that he might sue you?

Mrs. Markle: Well, I was disturbed by the fact that we have absolute—I didn't want to be drawn into it. At that time I didn't feel able or well enough to carry the discussion further at that time.

Mr. Scherer: You were, of course, not under oath at that time?

Mrs. Markle: No.

Mr. Scherer: This wasn't in the form of an affidavit?

Mrs. Markle: That is right.

Mr. Scherer: You are under oath today?

Mrs. Markle: Yes, yes, I know.

Mr. Velde: And have you told the entire truth?

Mrs. Markle: Yes, indeed I have. I have no other reason in the world other than I felt it was my patriotic duty. I have no purpose in doing this. Mr. Riley has always been very good to me. I have always enjoyed him and his wife and children always, but I felt it necessary, my duty as a citizen. I have 4 children, and I felt that that was the only means I had of defending my country.

Mr. Scherer: Each one of the points that are dealt with in this statement that you signed, were those discussed during that day?

Mrs. Markle: Yes, oh, yes, we went—he did, as, I say, parts of the hearing proceedings before that I wasn't present and some of the deposition—

Mr. Scherer: Did he read that to you?

Mrs. Markle: Yes. Then I would say technically that is right, but—and I am very sure that some of those things have been slipped in there, because I don't recall a lot of that. I really frankly don't, and I am under oath, and I realize the seriousness of it, and I really don't feel that some

of those things that I said, because after all, I have a very clear mind. I was very upset at the time and disturbed emotionally.

Mr. Scherer: Did he have a record something like this and read to you?

Mrs. Markle: No, it was much like Mr. Williams has, pieces of paper that were attached and typewritten that he had taken—I made a deposition to the FBI, and he had most of these points that I had made, and possibly he had them all, but the ones he brought out were the ones that we discussed.

[fol. 193] Mr. Scherer: What you originally told the FBI is what you are telling us here today, isn't it?

Mrs. Markle: Yes, indeed; yes, it is.

Mr. Velde: Do you have further questions, Mr. Counsel?

Mr. Kunzig: I have none, Mr. Chairman.

Mr. Velde: Do you have further questions, Mr. Scherer?

Mr. Scherer: No.

Mr. Velde: Mr. Moulder?

Mr. Moulder: No.

Mr. Velde: Again let me say the matter of the reading of this letter is not strictly in line with the duties of our committee, but since it was asked by the witness who previously appeared here, Mr. Riley, the committee determined that it was best to admit the evidence in the interest of fairness to all people and to get the explanation of you, Mrs. Markle.

Let me say for myself, personally, that I do believe that you have given very clear and accurate testimony—

Mrs. Markle: Thank you.

Mr. Velde (continuing): In this hearing. I think you have served a very fine patriotic duty, and unless there is something further?

Mr. Moulder has a question.

Mr. Moulder: As I understand your testimony, in the course of your testimony you say that Mr. Riley first appeared at your home?

Mrs. Markle: Yes.

Mr. Moulder: Prior to that time you had been an employee of his working at his home?

Mrs. Markle: Some 10 years before that, yes?

Mr. Moulder: You were attached to the children?

Mrs. Markle: Yes, indeed.

Mr. Moulder: And also had high respect for Mr. Riley?

Mrs. Markle: Yes.

Mr. Moulder: And then he appears at your home on this date of the statement?

Mrs. Markle: Yes.

Mr. Moulder: Appealing to you for help?

Mrs. Markle: Yes.

Mr. Moulder: At that time he was under investigation by the loyalty board?

Mrs. Markle: Loyalty board, yes.

Mr. Moulder: He so stated to you, did he?

Mrs. Markle: Yes.

Mr. Moulder: And also stated that it would cause him considerable financial loss and loss of position?

Mrs. Markle: Embarrassment to his family, and that he would be very likely to lose his home because naturally he would be dismissed from his work.

Mr. Moulder: Was it along those lines and that persuasion that induced you to comply with his request?

Mrs. Markle: Yes.

Mr. Moulder: That you signed this statement which he had prepared?

Mrs. Markle: Yes, yes.

Mr. Moulder: That is all.

Mr. Velde: Do you have anything further of this particular witness?

[fol. 194] Mr. Kunzig: No.

Mr. Velde: Again let me say, Mrs. Markle that you are dismissed with the committee's thanks for your patriotic service.

Mrs. Markle: Thank you. It has been a privilege.

Mr. Kunzig: Mr. Chairman, I would like to ask once again before the conclusion of today's testimony that Mr. Williams take the stand for one final bit of testimony he has for today. You were already sworn, Mr. Williams, so will you just be seated.

Mr. Velde: All right, proceed.

TESTIMONY OF GEORGE C. WILLIAMS—Resumed

Mr. Kunzig: In the testimony which we have heard just a few moments ago, Mr. Chairman, there was reference to

the fact that Mr. Markle, the husband of the past witness, took Mr. Riley, drove Mr. Riley down to the bus, I believe she said, after Mr. Riley's visit to the Markles', at which time he elicited this statement that we have just discussed. Have you, Mr. Williams, had occasion to discuss this matter with Mr. Markle?

Mr. Williams: Yes, Sir, I have.

Mr. Kunzig: Where was that?

Mr. Williams: At his home in Stockton, Calif.

Mr. Kunzig: Did Mr. Markle discuss with you anything with respect to taking Mr. Riley, driving him down to the bus?

Mr. Williams: Yes, Mr. Markle discussed that with me, and at that time furnished me a signed statement which, if you have no objection, I shall read.

Mr. Kunzig: Would you read that statement, please, at this time into the record. This is Mr. Markle's statement, is that right?

Mr. Williams: Mr. Markle, Mrs. Markle's husband.
[Reading:]

Stockton, Calif., February 9, 1954.

I, Marvin Markle, make the following statement to George C. Williams who has identified himself to me as an investigator for the House Committee on Un-American Activities. I make this statement voluntarily. I first met Vernon Riley in March of 1953. He had come to our home to see my wife who used to be their housekeeper when they, the Rileys, lived in Spokane, Wash. I arrived home from work the day Mr. Riley was at our home at 6:30 or 6:45 p. m. Mr. Riley had dinner with us, and after dinner I drove Mr. Riley into Stockton to catch a bus. While driving into town Mr. Riley was talking to me about communism. I told him that I felt that if someone attended some Communist Party meetings some years ago that it was no crime. Mr. Riley agreed with this, and I recall him saying that he had left the Communist Party. He stated at the time he was in it it was just a fad. That was the only time I have ever seen Mr. Riley—

and it was signed by Mr. Markle.

Mr. Kunzig: I have no further questions.

Mr. Velde: Mr. Scherer, do you have anything further?

Mr. Scherer: No questions.

Mr. Velde: Mr. Moulder?

Mr. Moulder: I have no questions.

Mr. Velde: The committee will stand in adjournment until 1 o'clock tomorrow.

In the meantime the committee will meet in executive session.

(Whereupon, at 4:55 p. m., the hearing was adjourned until 1 p. m., Tuesday, March 16, 1954.)

[Vol. 195]

GOVERNMENT'S EXHIBIT 3

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE ALBANY, N. Y., AREA—Part 3

HEARING

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

SECOND SESSION

APRIL 7, 1954

Printed for the use of the Committee on
Un-American Activities

[fol. 196]

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE ALBANY, N. Y., AREA—Part 3

WEDNESDAY, APRIL 7, 1954

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON UN-AMERICAN
ACTIVITIES,

Albany, N. Y.

PUBLIC HEARING

The subcommittee of the Committee on Un-American Activities met, pursuant to notice, at 10:35 a. m., in hearing room No. 1 of the Federal Building, Albany, N. Y., the Honorable Bernard W. Kearney presiding.

Committee members present: Representatives Bernard W. Kearney, Gordon H. Scherer, and Francis E. Walter.

Staff members present: Frank S. Tavenner, Jr., counsel; Thomas W. Beale, Sr., chief clerk; and Earl L. Fuoss and James A. Andrews, investigators.

STATEMENT OF MR. KEARNEY

Mr. Kearney: The hearing will be order.

Let the record show that, acting under authority of the resolution establishing the House Committee on Un-American Activities, the chairman has set up a subcommittee for the purpose of conducting hearings in the city of Albany, composed of the following members: Hon. Bernard W. Kearney, chairman; Hon. Gordon H. Scherer; and Hon. Francis E. Walter.

This committee is charged by the Congress of the United States with the responsibility of investigating the extent, character, and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries, or of a domestic origin, and attacks the principles of the form of government as guaranteed by our Constitution and all other questions in

relation thereto that will aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities will resume this morning the investigation of Communist Party activities within the capital area. This is a continuation of the open hearings which were conducted in Albany between July 13 and 16, 1953. The investigation has been extended into adjacent areas, from which witnesses are also expected to be heard.

A public announcement was made in January that hearings would be resumed here at a much earlier date, but due to my desire not to interfere with sessions of the Federal court, and for reasons beyond the committee's control, it became necessary to postpone them until this time.

[fol. 197] Testimony was adduced during the July 1953 hearings which was of great value to the committee in the discharge of the duties imposed upon it by the Congress. Two witnesses identified as a former member of the Communist Party an individual then occupying an important Government position in Cincinnati, Ohio, namely, that of a regional representative of the Federal Mediation and Conciliation Service. Although the individual holding this position consistently denied Communist Party affiliation in three loyalty hearings held in 1948, 1952, and 1953, resulting in his clearance at those hearings and the retention of his Government position, when he was subpoenaed before this committee, on the basis of the sworn testimony taken here in Albany, he immediately resigned his important Federal position and appeared before this committee in response to his subpoena and admitted former Communist Party membership, and that he had perjured himself on the three occasions mentioned above. Due to the high position occupied by this individual in the Federal Government, this disclosure was one of the most important incidents of the year in the field of congressional investigations.

The testimony of Pat Walsh, a former Communist and member of the Canadian Seaman's Union, was of inestimable value in giving a clear picture of the international aspects of the Communist conspiracy.

Other testimony taken at the 1953 Albany hearings related to the efforts of the Communist Party to infiltrate

industry and other segments of society in the capital area. Testimony now to be heard is expected to supplement that formerly given on this subject and as indicated will extend into adjacent areas.

I want to emphasize what I have stated hitherto, namely that the committee is not concerned with the political beliefs or opinions of any witness. It is concerned only with facts showing the extent, character, and objects of Communist Party activities within the areas from which the witnesses are subpoenaed.

I desire also to make it clear that this committee is not interested in any dispute between management and labor or with internal disputes within the field of labor. However, the committee considers that it has a legislative mandate to investigate the extent, character, and objects of Communist Party activities wherever evidence of its existence is found, and this it proposes to do.

This committee is not investigating labor unions, but it is investigating communism within the field of labor where it has substantial evidence that it exists. Such an investigation is particularly pertinent at this time when the Committee on Un-American Activities is engaged in the study of H. R. 7487 which has been referred by the Speaker of the House to this committee.

In keeping with the long-standing policy of this committee, any individuals or organizations, whose names are mentioned during the course of the hearing in such a manner as to adversely affect them, shall have an opportunity to appear before the committee for the purpose of making a denial or offering an explanation of such adverse information.

I would also like at this time, before the beginning of these hearings, to make this announcement to the public:

We are here at the direction of the Congress of the United States, trying to discharge a duty and obligation that has been placed upon us. The public is here by per-[fol. 198] mission of the committee and not by any compulsion. Any attempt or effort on the part of anyone to make a demonstration or audible comment in this hearing room, either favorably or unfavorably, toward the committee's undertaking, or to what any witness may have to say, will

not be countenanced by the committee. If such conduct should occur, the officers on duty will be requested to eject the offenders from the hearing room.

[fol. 199]

TESTIMONY OF JOHN EDWARD MARQUEE, ACCOMPANIED BY
HIS COUNSEL, LOUIS P. EISNER

Mr. Tavenner: What is your name, please, sir?

Mr. Marqusee: John Edward Marqusee.

Mr. Tavenner: Are you accompanied by counsel?

Mr. Marqusee: I am, sir.

Mr. Tavenner: Will counsel identify himself for the record, please?

Mr. Eisner: Louis P. Eisner, 32 East 57th Street, New York City. This is a situation in which I am really more than counsel. This lad's grandfather was my partner for 20 years. We propose to raise no legal questions whatsoever. I am here merely as a prompter in case Johnny forgets a detail or two. We appeared before you in executive session, you may recall.

Mr. Tavenner: Yes; I thought so. When and where were you born, Mr. Marqusee?

Mr. Marqusee: In the city of New York, February 16, 1928.

Mr. Tavenner: Where do you now reside?

Mr. Marqusee: In Queens, New York City.

Mr. Tavenner: Will you tell the committee, please, what your educational training has consisted of?

Mr. Marqusee: I attended Cornell University School of Industrial and Labor Relations between the years of 1947 and 1951. I graduated from that school. I went to Boston University School of Law, 1952. In 1952-53 I was a student at the New York School of Law, and I am presently completing my law curriculum at that school.

Mr. Tavenner: Will you spell your last name?

Mr. Marqusee: M-a-r-q-u-e-e.

Mr. Tavenner: When did you matriculate at Cornell University?

Mr. Marqusee: In September of 1947.

[fol. 200] Mr. Tavenner: In what branch or division of the school were you enrolled?

Mr. Marqusee: I was a student in the New York State School of Industrial and Labor Relations, which is a part of Cornell University.

Mr. Tavenner: During the course that you took at Cornell, in the field of industrial relations, did you engage in fieldwork in the summertime as part of your course?

Mr. Marqusee: The school has a theoretical requirement that every student should put forth his efforts in securing a job during the summer, during the intervening summers of his 4-year program, 1 summer with a labor union, 1 with a management group, if possible, and 1 summer with a neutral agency, such as a mediation agency or arbitration service. This requirement was in effect, and every student was to have made reasonable attempts to conform with that requirement.

Mr. Tavenner: Did you conform with it?

Mr. Marqusee: Satisfactorily to graduate. I had a summer of employment with a labor union. I had a summer of what was satisfactory as far as management was concerned. I never had any employment with a neutral agency of any kind.

Mr. Tavenner: When did you have employment with a labor union as part of your course?

Mr. Marqusee: In the summer of 1948.

Mr. Tavenner: Will you tell the committee, please, the circumstances under which you became employed in the field of labor and by whom?

Mr. Marqusee: Before I entered Cornell University School of Industrial and Labor Relations, I had never had any experience with unions, and I was particularly anxious, having completed most of my first year to have some experience and to acquaint myself somewhat with trade unionism, and the school had a placement department. I went to that placement department and asked if I could secure a job with a union. I had heard the school had some job opportunities available with various unions.

As a consequence of that discussion with the placement office, I was told by the placement officer in the department

that several names would be included on a list to be sent to local No. 301 of the United Electrical Radio and Machine Workers, which at that time was CIO, and my name, if I so chose, was to be amongst them, and I said I wanted employment with a labor union and it was included. I was instructed that once the list had been sent in to go ahead on my own and secure that job, which I did.

Mr. Tavenner: Will you tell the committee where local No. 301 had its center of operations?

Mr. Marqusee: Local No. 301 is the union which has jurisdiction over the General Electric plant in New York.

Mr. Tavenner: Did you go to Schenectady?

Mr. Marqusee: I did. I wrote a letter first to the union in which, as I recall, I briefly told them it was my understanding I had been included on a list, that I was interested in securing a job. I told them I would come up for an interview. I went up. It was a brief one. Subsequently, I met with the assistant business agent. Subsequent to that, I was told I had the job.

[fol. 201] Mr. Tavenner: Who was the assistant business agent?

Mr. Marqusee: It was a Victor Pasch.

Mr. Tavenner: As a result, you were employed there for the summer?

Mr. Marqusee: For a period of 7 or 8 weeks.

Mr. Tavenner: What was the nature of your duties?

Mr. Marqusee: Well, I was called, and for the first few weeks, when I was there, there were menial tasks of clerical work in the office and odd jobs around, but I had the opportunity to attend the meetings, the executive board meetings, some of them, and the shop meetings, and the membership meetings, and in these odd tasks and in attendance, I observed and the weeks went by.

Mr. Tavenner: Was there any particular phase of the activity of that union in which you spent a greater part of your time than others?

Mr. Marqusee: Well, it was during the summer of 1948 that the local No. 301 took an official position of some kind in an endorsement of its union president, who was running in the Democratic primaries for Congressman, and this same union president had already secured the nomination

of the American Labor Party, and the union then as part of the political party took upon itself the securing of this Mr. Andrews Peterson's nomination in the fight which followed his nomination by the American Labor Party. It was suggested that I get active in this. I certainly wanted to. It was a part of union activity, and I wanted to expose myself as much as possible to everything that was going on so I did take part in this campaign.

Mr. Tavenner: Where were the campaign headquarters through which this work was performed?

Mr. Marqusee: Theoretically, it was an independent union campaign to promote Mr. Peterson's name in the Democratic Party primary, but in practice, Mr. Peterson had already gotten the nomination of the American Labor Party whose headquarters were in a store in the same building that the United Electric Local No. 301 headquarters were, and it was downstairs, so that there was a constant intercourse of exchange of information and suggestions and planning of programs and strategy, and so I would say that the headquarters of both—the union were upstairs and the American Labor Party downstairs.

Mr. Tavenner: Who was the head of the American Labor Party with whom you worked in that connection?

Mr. Marqusee: I am sorry I don't know who the head was. The functionary of the American Labor Party at that time, who had the position of executive secretary, was Robert Northrup.

Mr. Tavenner: Had you known Mr. Robert Northrup before this activity?

Mr. Marqusee: No. I had known no one in it. I hadn't been in Schenectady before. I met Northrup as a result of my participation in this political campaign.

Mr. Tavenner: Did you become well acquainted with Mr. Northrup?

Mr. Marqusee: I did.

Mr. Tavenner: Where were you living at this time?

Mr. Marqusee: When I first came to Schenectady I lived at the YMCA in Schenectady, and then I lived there for [fol. 202] perhaps 3 weeks, about that period of time. In the course of my contact with Bob Northrup, he asked if I would like to live at his house and take a room there for

which I was to pay some informal arrangement of rent and it seemed a lot more appealing to me, and I had some regard for him. I moved into Bob Northrup's house, which was a two-family house in Schenectady, some time, I would say, in the last week of July or the first week of August of that summer, 1948.

Mr. Tavenner: This was a two-family house?

Mr. Marqusee: That is correct.

Mr. Tavenner: What was the name of the family living in the other part of the house?

Mr. Marqusee: I believe the name of the family was Ellis.

Mr. Tavenner: Do you recall his first name?

Mr. Marqusee: Rudy. He was known as Rudy Ellis.

Mr. Tavenner: Prior to your taking this position for the summer with No. 301, had you ever been affiliated in any way with this Communist Party?

Mr. Marqusee: Never. As a matter of fact, I don't know whether I ever had a contact with the Communist Party prior to taking that job.

Mr. Tavenner: Can you say the same thing for the end of your summer time?

Mr. Marqusee: No, I can't.

Mr. Tavenner: At United Electric?

Mr. Marqusee: No.

Mr. Tavenner: Just tell the committee what occurred, please, with reference to your affiliation with the Communist Party as a result of the experience that you had with Local No. 301 of the United Electric.

Mr. Marqusee: After I had lived with the Northrups for a week or two, perhaps, I was asked by Bob Northrup if I would like to go to a Communist Party meeting at which Elizabeth Gurley Flynn who was the national Communist leader was to speak on the Communist approach to contemporary events and international questions.

Mr. Tavenner: Let's pinpoint the time. When was it?

Mr. Marqusee: That was in the first or second week of August 1948.

Mr. Tavenner: Well, he asked you if you would like to go to this Communist Party affair?

Mr. Marqusee: That is correct.

Mr. Tavenner: Did you go?

Mr. Marqusee: I did.

Mr. Tavenner: Tell the committee, please, all you can recall about that meeting.

Mr. Marqusee: The meeting was held in the home of a Mr. Sidney Friedlander whom I believe lived in Scotia, a suburb of Schenectady.

Mr. Tavenner: Do you know what position Mr. Friedlander had at that time in his local?

Mr. Marqusee: I know that he was a very active member of the local, and I had seen him up at the local headquarters on a number of occasions in the short period of time, and I think—

Mr. Tavenner: If you don't know, don't state.

Mr. Marqusee: I am not sure. I went to this meeting and Elizabeth Gurley Flynn was there and spoke for a short period of time, and there were a few others at the meeting. It was subsequent to this meeting that I was [fol. 203] asked if I wanted to learn more of the Communist Party and its activities and policies and programs and so forth.

Bob Northrup asked me that.

Mr. Tavenner: Was that at the meeting that night?

Mr. Marqusee: I believe the meeting was held in the afternoon, and I think this took place as we were driving away from the meeting or perhaps a little social discussion after the meeting.

Mr. Tavenner: What did you tell Mr. Northrup when he asked you if you wanted to obtain more information regarding the Communist Party?

Mr. Marqusee: I said, "Yes; I would be interested in learning," and, frankly, I had a high regard for Bob Northrup and the people I had met whom I associated with the Communist movement appeared to be active people. It was my first experience with anything that involved social reform or political activity of any kind, and I never had any contact with Communists before. I wasn't aware of the consequences of my decision at that time, but I simply said I did want to learn more about it, and if he cared to have me, I would go to the other meetings and take part. He suggested this was a good way to learn about the Communist Party and the Communist program, by learning it

from the authoritative sources, the members themselves.

Mr. Tavenner: Did you become a member of the Communist Party as a result of this experience?

Mr. Marqusee: I did.

Mr. Tavenner: Were you issued a Communist Party card?

Mr. Marqusee: That I never have been sure of. I was issued a card of some kind, which I recall was a constitution of the Communist Party. There was no question I was a member of the Communist Party. The only people at these meetings were members of the Communist Party. How long they had been in, I had no knowledge. I wanted to learn more about it. It subsequently confirmed what I had thought.

Mr. Tavenner: Will you tell who were the other persons present at this first meeting that you attended at which Elizabeth Gurley Flynn spoke?

Mr. Marqusee: Bob Northrup was there. Sidney Friedlander was there. His wife, Mrs. Friedlander, was there. A Metty Fernandez.

Mr. Tavenner: Will you spell that?

Mr. Marqusee: I believe it is F-e-r-n-a-n-d-e-z, and I believe there were 1 or 2 others whose names I can't recall.

Mr. Tavenner: In your discussions with Mr. Northrup, were you informed by him as to what advantage there would be to you to join the Communist Party and become a member of it?

Mr. Marqusee: Some week or 2 or 3 weeks after I went to this meeting and joined the Communist Party, and I believe just a week prior to when I was to leave my employment with the local and go home for a vacation and continue my schooling in the Cornell School of Industrial and Labor Relations, we had a few discussions along these lines in which he asked me if I had an interest in trade unionism, if I had an interest in making a career in the trade-union movement, enthusiasm for the labor movement, and I said I did, based on my short experience with the UE. At that time, I felt it was a dynamic thing, and I did have [fol. 204] an interest. The general tenor of what he expressed to me was, first of all, that the trade-union-movement leadership from the viewpoint that Communists should

come from the ranks of the workers and that the best way to develop into leadership in the trade-union movement, the best way to make a contribution from a Communist view was to go into the shop, and he urged me to secure employment in the General Electric at that time and not go back to school.

Mr. Tavenner: You were discouraged in not completing your education along the lines you had planned it?

Mr. Marqusee: In effect, yes. I had a similar discussion with another person.

Mr. Tavenner: Who was that?

Mr. Marqusee: Hal Klein, who was a functionary of the Communist Party of that area. He made the same point on a few occasions and further stated that the best training for an analysis and an insight into what makes up good trade-union leadership in his viewpoint was a membership in the Communist Party and background in the Communist Party while employed as a rank-and-file worker in the plant, and the tenor of both of these discussions was to urge me to stay on in Schenectady.

Mr. Walter: The thing that has impressed me, not only in this hearing, but at similar ones, is the fact that the UE is not able to provide the kind of leadership that you talk about because of the leaders they have. They don't produce the militant program that other trade-union leaders do because they are afraid of the result that the workers themselves suffer and don't get what they would get if they were members of organizations that are not dominated by communism.

Mr. Kearney: Would you mind repeating the name of that individual you named who was the Communist organizer in Schenectady.

Mr. Marqusee: Harold Klein.

Mr. Tavenner: Did you return and resume your studies, or did you follow the suggestions made by Harold Klein and Mr. Northrup that you go into the shop and begin your career in the field of industrial relations that way?

Mr. Marqusee: No; I didn't follow their suggestions at all. Independent of family pressure, of which there would have been considerable, I had always wanted to be an attorney.

ney, which was in the back of my mind from the very day I started school, and I also had simply not enough enthusiasm for that suggestion nor was I convinced of its constructive value, and I told them I wasn't interested at that time in staying there, and I told them I was going back to Cornell to complete my education.

[fol. 205] Mr. Tavenner: Your testimony indicates that you continue to attend the Communist Party meetings after returning to Cornell from your summer's work with local No. 301.

Mr. Marqusee: That is correct.

Mr. Tavenner: Will you tell the committee, please, what the nature of your activities were after your return to Cornell that fall.

Mr. Marqusee: Are you asking a question in relation to Communist Party activities?

Mr. Tavenner: Yes.

Mr. Marqusee: Before I left Schenectady, Harold Klein—after I had told him my decision not to accept the suggestion of staying in Schenectady, based on my desire to finish my education and go on to a legal education, Hal Klein told me I would certainly be interested in continuing my Communist Party activities, and I would be contacted by someone at Cornell's campus. This was some time in August. I went home for about a month and returned to Cornell in the fall of 1948. A few weeks after I was back at Cornell, I spoke to 2 brothers who were then fellow students of mine in the school of industrial relations and who had a reputation of either being Communists or very close to Communists, and I simply said to them, "Are you members of the Communist Party?" and they said they were and did I think I was. I said I would like to go to the meetings or the discussions and they said they would arrange it, which they did.

[fol. 206]

GOVERNMENT'S EXHIBIT 4

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE ALBANY, N. Y., AREA—Part 4

HEARING

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

SECOND SESSION

APRIL 8, 1954

(MORNING SESSION)

Printed for the use of the Committee on
Un-American Activities

[fol. 207]

INVESTIGATION OF COMMUNIST ACTIVITIES
IN THE ALBANY, N. Y., AREA—Part 4

THURSDAY, APRIL 8, 1954.

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON UN-AMERICAN
ACTIVITIES,*Albany, N. Y.*

TESTIMONY OF EMMANUEL ROSS RICHARDSON

[fol. 208] Mr. Tavenner: When did you enter the law
school at Cornell University?

Mr. Richardson: September 1950.

Mr. Tavenner: When did you complete your course there?

Mr. Richardson: I left there in June 1953.

Mr. Tavenner: While a student in the law school at Cornell University did you meet a person by the name of David Brownstone?

Mr. Richardson: Yes, I did.

Mr. Tavenner: Tell the committee the circumstances under which you met him and what transpired between you.

Mr. Richardson: When I first went into the school, Brownstone made my acquaintance. He started inviting me to lunch at his home, giving me the facts of communism and discussing communism with me in general.

Mr. Tavenner: Did he extend you an invitation to join the Communist club or group at Cornell University?

Mr. Richardson: Not at that time. Later he did.

Mr. Tavenner: Tell the committee just what led up to his extending that invitation to you.

Mr. Richardson: When he started inviting me to his home for lunch I reported it to the FBI, and I gave them all the facts. The FBI requested that I continue to meet with him and to go into the party.

Mr. Scherer: At that time had you had any previous contact with the FBI?

Mr. Richardson: Previous to the time I contacted them?

Mr. Scherer: That is right.

Mr. Richardson: No, I did not.

Mr. Tavenner: The point is that when this one individual began talking to you about communism and he extended an invitation to you to become a member you reported that to the Federal Bureau of Investigation?

[fol. 209] Mr. Richardson: I reported it before he extended the invitation.

Mr. Tavenner: As a result of the suggestion that was made to you by the Federal Bureau of Investigation, did you accept the invitation that was extended to you?

Mr. Richardson: Yes; I did.

Mr. Tavenner: Then you became a member of the Communist group at Cornell?

Mr. Richardson: That's true.

Mr. Tavenner: Will you tell the committee, please, just what you did when you first became a member?

Mr. Richardson: When I first became a member they assigned me to the Labor Youth League, which is a sort of training for future Communist members.

Mr. Tavenner: But were you already a member of the Communist Party at the time you were assigned to that group?

Mr. Richardson: That's true.

[fol. 210] Mr. Scherer: May I interrupt?

Mr. Tavenner: Yes.

Mr. Scherer: For the record, Mr. Beale, the clerk, reminds me that Jessica Smith was the long-time editor of the Soviet Russia Today. Do you say that she talked to the student group at Cornell?

Mr. Richardson: That's correct.

Mr. Scherer: They heckled her, too?

Mr. Richardson: They did.

Mr. Scherer: Go ahead.

Mr. Tavenner: You referred to the existence of a group of graduate students as part of the Communist organization on the campus. How many members of the graduate school were members of the Communist organization?

Mr. Richardson: There were six.

Mr. Tavenner: And there were 6 members of the graduate group?

Mr. Richardson: That's correct.

Mr. Tavenner: Due to the usual age spread of those who engage in graduate studies I am going to ask you to give the committee the names of those who were members of the graduate group.

Mr. Richardson: Leonard and Barbara, a married couple.

Mr. Tavenner: What is the last name?

Mr. Richardson: Marzak, M-a-r-z-a-k. Bernie and Peggie Deutch, D-e-u-t-c-h. Homer and Marge Owen.

Mr. Tavenner: Mr. Chairman, the person referred to as Mr. Owen has appeared before the committee and cooperated with it, and has admitted his former Communist Party membership and has demonstrated that he is no longer a member of the Communist Party.

All right:

Mr. Richardson: Those are the members.

Mr. Tavenner: Will you give the committee, please, the names of those who were the leaders in the campus undergraduate student group?

Mr. Richardson: Of the Communist Party?

Mr. Tavenner: Of the Communist Party. I want now just those who took the foremost part in the operations of that group.

Mr. Richardson: Jonathan and David Lubell, L-u-b-e-l-l. Do you want them identified?

Mr. Tavenner: You say the name is Jonathan?

Mr. Richardson: That's right.

Mr. Tavenner: Was he also referred to as Jon, J-o-n?

Mr. Richardson: That's correct.

Mr. Tavenner: So "Jon" and "Jonathan" are the same person?

Mr. Richardson: That's correct. Do you want any identifying information?

Mr. Tavenner: Yes; I would like any identifying information you can give regarding them.

Mr. Richardson: The Lubells, when they graduated from Cornell, went to Harvard Law School where they were called up before a committee in Boston, and they stood on the fifth amendment.

Mr. Tavenner: Was that a congressional committee before which they appeared?

[fol. 211] Mr. Richardson: That's correct. Janet Moran and John Marqusee. That's M-o-r-a-n and M-a-r-q-u-e-e. They are now man and wife. The last I heard they were living in Boston. David Greenwood—

Mr. Tavenner: Do you know whether Mr. Marqusee was here yesterday as a witness before the committee?

Mr. Richardson: I heard of it.

Mr. Tavenner: All right, continue.

Mr. Richardson: David Greenwood. The last I heard, he is still in New York. Samuel Suckow, S-u-c-k-o-w. He left not long after I started at Cornell.

Mr. Tavenner: You mean left the Communist Party or left—

Mr. Richardson: Left the area. Mary Woods, W-o-o-d-s.

Mr. Tavenner: What function did she play in the work of the party?

Mr. Richardson: Mary Woods was not too active around the Cornell area. It was only after she graduated from Cornell that the party sent her to Binghamton to work, and there she became more active.

Mr. Tavenner: All right, continue.

Mr. Richardson: Carl Milvy. It's really Milvy, M-i-l-v-y, a contraction of two names, "Milt" and "Levy."

Mr. Scherer: What was that name again?

Mr. Richardson: Milvy, M-i-l-v-y.

Mr. Scherer: Is that his correct name?

Mr. Richardson: It is a correct name today. It was contracted when the man's father first came from the Old Country. Robert Balenky, B-a-l-e-n-k-y, and Eleanor Walden again, and Connie Mitchell.

Mr. Tavenner: Those are the persons who were the most active and took positions of leadership in the Communist group on the campus?

Mr. Richardson: That's correct.

Mr. Tavenner: Were there others?

Mr. Richardson: There were.

Mr. Tavenner: Other members besides those you have mentioned?

Mr. Richardson: There were.

Mr. Tavenner: Mr. Chairman, I would suggest that the names of the other persons who were members of this campus group be taken in executive session, with a view in mind that the staff making further investigation as to those individuals and that public mentioning of their names await the future action of the committee.

Mr. Scherer: The suggestion of counsel will be followed.

Mr. Tavenner: Where were the Communist Party meetings held on the campus?

Mr. Richardson: Many times they were held in the classrooms of Goldwin and Smith Hall, on the campus.

Mr. Tavenner: Were you aware of the existence of a Communist Party group within the faculty at Cornell?

Mr. Richardson: Not as a group. I was only aware of one faculty member who was a Communist Party member, and I did not know who he was.

Mr. Tavenner: You were never successful in learning his name?

Mr. Richardson: That's correct.

[fol. 212] Mr. Tavenner: How is it that you can testify that there was a person on the faculty who was a member of the Communist Party if you have never learned of his name?

Mr. Richardson: I had one man who was to contact this person, and any information coming from the city committee or from the Communist Party was carried to him through this one person, and anything he had to send back to the Communist Party came back through this one person.

Mr. Scherer: What was that one person's name?

Mr. Richardson: Bernie Deutch.

Mr. Scherer: Spell it.

Mr. Richardson: D-e-u-t-c-h.

Mr. Tavenner: He was a member of the graduate school group of the party?

Mr. Richardson: That's correct.

Mr. Scherer: Again for the record, What year was it that Bernie Deutch acted as a contact man with the professor?

Mr. Richardson: I know from the early part of 1952 until the Communist Party re-registration, around March of 1953.

Mr. Tavenner: Were any contributions made to the general work of the party by the unknown individual on the faculty?

Mr. Richardson: At one time one hundred and some dollars was turned over to me from a mysterious source, and I suspected that it came from that member.

Mr. Scherer: You don't know?

Mr. Richardson: I don't know.

Mr. Scherer: You say "a mysterious source." Was it this Bernie Deutch?

Mr. Richardson: It came through Bernie Deutch.

Mr. Scherer: Did Bernie Deutch tell you where it was from?

Mr. Richardson: No. He said it came from someone else other than himself.

Mr. Tavenner: You referred to the party meetings being held in the classroom. Did the authorities of the university know of the holding of those meetings of the Communist Party?

Mr. Richardson: They did not. The rooms were left open oftentimes during the evenings and night, and the members of the student group would go in there, one of the back rooms, and use it for the meeting.

Mr. Tavenner: Did your Communist Party group receive any encouragement, directly or indirectly, from any of the members of the faculty as far as you know?

If you don't know of your own knowledge, I don't want surmise about it.

Mr. Richardson: I could give a qualified answer. Not that I don't know of my own knowledge. It could be a slight encouragement.

(Portion of the proceedings were ordered stricken from the record by the acting chairman of the subcommittee.)

Mr. Tavenner: I think, Mr. Chairman, this is a very convenient place for a break if you want to have it. It will be possibly three-quarters of an hour more.

Mr. Scherer: We will take about a 5-minute recess.

(Whereupon, at 11 a. m., the hearing was recessed, reconvening at 11:15 a. m.)

[fol. 213]

AFTER RECESS

Mr. Scherer: You may proceed, Mr. Tavenner.

Mr. Tavenner: How did you occupy your summer vacations while a student at Cornell?

Mr. Richardson: By working in Syracuse, N. Y., in the General Electric plant.

Mr. Tavenner: What summer or summers did you work there?

Mr. Richardson: From June to September 1951, and June to September 1952.

Mr. Tavenner: Will you tell the committee the circumstances under which you obtained that employment?

Mr. Richardson: I obtained it through the Federal Bureau of Investigation.

Mr. Tavenner: When you went to Syracuse, to whom did you report for employment?

Mr. Richardson: The personnel, one of the men in personnel.

Mr. Tavenner: To what job or position were you assigned?

Mr. Richardson: I was given the job of an accumulator, taking inventory.

Mr. Tavenner: Did you continue in Communist Party activities of any character while working in Syracuse?

Mr. Richardson: I did.

Mr. Tavenner: Will you tell the committee about that, please?

Mr. Richardson: Upon learning that I had a job in Syracuse I notified the southern-tier organizer of the Communist Party that I was going to work in Syracuse.

Mr. Tavenner: Was that Robert Johnston?

Mr. Richardson: That's correct. He put me in contact with the leaders of the Communist Party of Onondaga County, and I was assigned to the shop committee of the Communist Party of Syracuse.

Mr. Tavenner: Who were the leaders of the Communist Party in Syracuse to whom you were referred?

Mr. Richardson: The Onondaga County chairman, Nate Zepatello. That's N-a-t-e. I don't know the spelling of that last name.

Mr. Tavenner: You do not know the correct spelling?

Mr. Richardson: That's correct.

Mr. Tavenner: Did you state that it was Mr. Johnston that had you assigned to the shop committee of the Communist Party, or was it the local chairman?

Mr. Richardson: It was actually Mr. Johnston. At the time, he was also acting organizer for the Syracuse area because the person he really was—the organizer for that area had left, and they didn't have one, so he was acting for that area, also.

Mr. Tavenner: That is, organizer for the Communist Party?

Mr. Richardson: That's correct.

Mr. Tavenner: What do you mean by a "shop committee"?

Mr. Richardson: A shop committee was composed of Communists who were working both in the shops or the factory.

Mr. Tavenner: Working in the shops where?

Mr. Richardson: The shop committee I belong to, every one of us work'd at General Electric except—

Mr. Tavenner: So all of the Communist employees in the shops were united into one group called the shop committee or shop group?

[fol. 214] Mr. Richardson: Shop committee.

Mr. Tavenner: Does that mean shop committee of the Communist Party?

Mr. Richardson: That's correct.

Mr. Tavenner: How many were in this group or committee that you became a member of?

Mr. Richardson: With myself, there were 5.

Mr. Tavenner: Were there other shop committees, as far as you know?

Mr. Richardson: I do not know.

Mr. Tavenner: Did this group have meetings?

Mr. Richardson: Yes, they did.

Mr. Tavenner: Did you attend them?

Mr. Richardson: I did.

Mr. Tavenner: How many meetings of the shop committee of the Communist Party did you attend?

Mr. Richardson: Over the 2 summers, I would say approximately 15 or 20.

Mr. Tavenner: Were you a member of the same shop committee both seasons, both years, or were they different committees?

Mr. Richardson: Both years—same committee.

Mr. Tavenner: Were the members the same both years?

Mr. Richardson: The members were the same except for 1 who had been expelled by the second summer.

[fol. 215]

GOVERNMENT'S EXHIBIT 5

COMMUNIST METHODS OF INFILTRATION

(EDUCATION—PART 8)

HEARINGS

BEFORE THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

EIGHTY-THIRD CONGRESS

FIRST AND SECOND SESSIONS

APRIL 21; JUNE 8, 1953; AND APRIL 12, 1954

Printed for the use of the Committee on
Un-American Activities

[fol. 216]

COMMUNIST METHODS OF INFILTRATION

(Education—Part 8)

MONDAY, APRIL 12, 1954

UNITED STATES HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF COMMITTEE ON
UN-AMERICAN ACTIVITIES,
Washington, D. C.EXECUTIVE SESSION¹

The subcommittee of the Committee on Un-American Activities met, pursuant to call, at 10:30 a. m., in room 225, Old House Office Building, the Honorable Donald L. Jackson, acting chairman, presiding.

¹ Released by the committee.

Committee members present: Representatives Donald L. Jackson, Gordon H. Scherer (appearance noted in transcript); Clyde Dowle, and Francis E. Walter (appearance noted in transcript).

Staff members present: Frank S. Tavenner, Jr., and Robert L. Kunzig, counsel; Thomas W. Beale, Sr., chief clerk; Earl Fuoss, investigator; Dolores Anderson, reporter.

Mr. Jackson: Will you raise your right hand to be sworn, please?

In the testimony you are about to give before this subcommittee, do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Deutch: I do.

TESTIMONY OF BERNHARD DEUTCH, ACCOMPANIED BY
HIS COUNSEL, HENRY W. SAWYER III

Mr. Jackson: You may sit down, please.

Let the record show that for the purpose of taking this testimony this morning, and pursuant to the rules of this committee, the chairman has appointed a subcommittee, consisting of Messrs. Scherer, Doyle, and Jackson, with Jackson as acting chairman.

Are you ready to proceed, Mr. Counsel?

Mr. Tavenner: Yes, sir.

Will you state your name, please?

Mr. Deutch: Bernard Deutch, B-e-r-n-h-a-r-d D-e-u-t-c-h, not D-e-u-t-s-c-h.

Mr. Tavenner: Are you accompanied by counsel, Mr. Deutch?

Mr. Deutch: Yes, sir.

Mr. Tavenner: Will counsel please identify himself?

Mr. Sawyer: Henry W. Sawyer, the 3d, 117 South 17th Street, Philadelphia, Pa.

[fol. 217] Mr. Tavenner: When and where were you born, Mr. Deutch?

Mr. Deutch: I was born September 29, 1929, in New York City.

Mr. Tavenner: Where do you now reside?

Mr. Deutch: In Philadelphia, Pa.

Mr. Tavenner: What is your present occupation or employment, or how are you now engaged?

Mr. Deutch: I am a student at the University of Pennsylvania.

Mr. Tavenner: Will you state for the committee, please, what your educational training to this point has been?

Mr. Deutch: I went to public school 225. Should I mention the years, too?

Mr. Tavenner: Yes.

Mr. Deutch: I guess I graduated in 1943, so 8 from 43 leaves—I started in 1935.

Mr. Tavenner: We don't need for you to go into that much detail. Just tell us briefly what your formal educational training has been.

Mr. Deutch: Public school. I went to high school in Brooklyn Technical High School. I went to Cornell University as an undergraduate, and spent 2 years on graduate study at Cornell and got a master's degree, and am now at the University of Pennsylvania.

Mr. Tavenner: When did you enter Cornell University?

Mr. Deutch: In 1947, I believe.

Mr. Tavenner: And when did you complete your master's degree at Cornell?

Mr. Deutch: In 1953.

Mr. Tavenner: Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

Were you a member of a group of the Communist Party at Cornell?

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: I will answer that question, but only under protest.

I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is the com-

mittee's enabling legislation. This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party.

Mr. Tavenner: The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party.

Will you tell us who that member of the faculty was?

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: Sir, I am perfectly willing to tell about my own activities, but do you feel I should trade my moral scruples by informing on someone else?

[fol. 218] Mr. Jackson: Let the Chair say that moral scruples on your part do not constitute a legal reason for declining to answer the question, and you are directed to answer the question.

Mr. Deutch: At this time I do think so, sir, because I had certain ideas and people I came in contact with had certain ideas. I didn't believe in force or violence, or anything like that.

Mr. Jackson: That is entirely beside the point. You have been asked a question and we must insist that you answer the question or decline to answer it, and your declination must consist of something more than your moral scruples.

Mr. Deutch: As to details of that, I think the whole question has been magnified more than it should have.

Mr. Jackson: There is a question pending and the Chair must insist that you answer the question that has been asked.

(At this point Representative Gordon H. Scherer entered the hearing room.)

(Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: I can only say that whereas I do not want to be in contempt of the committee, I do not believe I can answer questions about other people, but only about myself.

Mr. Jackson: You therefore refuse to answer the question that is pending, is that correct?

Mr. Deutch: Yes, sir, but I could amplify that point. I do not mean the point of contempt. I think—I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in wasn't even a professor. The magnitude of this is really beyond reason.

Mr. Jackson: That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we Representatives to determine. That determination cannot rest with you. It may be very true that the individual to whom you have referred is no longer a member of the Communist Party. However, that is a supposition on your part—and a supposition which the committee cannot accept.

Again I direct you to answer the question.

Mr. Deutch: The committee knows through Ross Richardson's statement that this gentleman had quit the Communist Party—who you are referring to—and it just happens I was the only contact because I was the only graduate student, so it was an inevitable thing.

Mr. Jackson: So you still decline to answer the question asked by counsel?

Mr. Deutch: Yes.

Mr. Jackson: Proceed.

Mr. Tavenner: Would you—

Mr. Doyle: Mr. Chairman?

Mr. Jackson: Mr. Doyle.

Mr. Doyle: The young man read a statement in which he referred to Public Law 601. He no doubt read point 1 in that law in which it states our duty in Congress is to inquire into the extent—that is the language—"the extent." Now manifestly our counsel, in asking you the name, etc., goes into the extent of the existence of the Communist cell, don't you see? All Communist activities. I wanted to emphasize that to you because you were referring to Public Law 601 and relying on that in your statement which you read. So I can come right back to you and ask, or call to your attention the fact that under our Congress

we have the duty or we are charged with looking into the extent, you see, which the Communist Party has acted. Therefore, you see, I am calling your attention to the fact that this question goes into the extent. I just wanted to call that to your attention, just in case you didn't realize the kind of question that was.

Mr. Deutch: Yes, I see. The only thing I am saying, sir, my challenge is, is it constitutional under Public Law 601?

Mr. Jackson: Very well, Counsel.

Mr. Tavenner: Were you aware of the existence of a membership in the Communist Party of more than one member of the faculty at Cornell University?

Mr. Deutch: No, sir.

Mr. Tavenner: The committee received testimony from Ross Richardson to the effect that you collected certain donations for the benefit of the Communist Party, and that on one occasion you delivered to him the sum of \$100, without designating to him the source of it. Will you tell the committee, please, the source of that \$100 contribution, if it was made?

Mr. Deutch: No; this contribution was made—I believe I gave you the reason why I decline to answer regarding names, and this was from a personal friend.

Mr. Jackson: Let the Chair make a statement at this time. I think that it is only fair to advise the witness—again advise the witness—that any scruples he may have due to a desire to protect friends and acquaintances, is not a legal reason for declining to answer the questions which are now being put to you, and which will be put to you by counsel. It is most important that you be fully aware of the possible consequences of your declination to answer—and I am confident that your able counsel has so advised you.

I want the record to show the succession of questions from the Chair, so that there can be no possible misunderstanding at any subsequent date, but will show that you were fully advised by the Chair, in the most friendly spirit. I assure you that your reasons, however laudable they may be, do not constitute a legal reason for declining to answer.

Proceed, Mr. Counsel.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Jackson: I have not issued a directive on the last question.

The witness is directed to answer the question as to the source of the contribution which he received and about which he has just been asked a question by the counsel.

Mr. Deutch: Is this last question about—

Mr. Jackson: The question that was asked by counsel relative to the \$100.

Mr. Deutch: That does not refer to your last statement.

Mr. Jackson: Well, everything that is being done—my statement refers to the entire proceeding, generally. Specifically, at this moment I am directing that you answer the question asked by counsel.

Mr. Deutch: I feel like I can't answer that question. I realize there are many problems facing me, and it wasn't an easy decision to make.

[fol. 220] Mr. Jackson: The Chair directs again that you answer.

Mr. Deutch: I am unable to.

Mr. Tavenner: Was the contribution of \$100 referred to a moment ago made by a member of the faculty at Cornell University?

Mr. Deutch: No, sir.

Mr. Tavenner: It is noted that in response to the question that preceded this last one that you said you were unable to answer the question. I want to know if you refuse to answer the question.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: Yes, sir.

Mr. Doyle: May I ask this question: Was it made by a teaching fellow of any sort at the university, less than the rank of a professor—a person that was instructor in some place?

Mr. Deutch: To the best of my recollection, I do not believe it was made by any member of Cornell University.

Mr. Doyle: Did you get by my question what I meant? Was it made by someone who was instructor in the classes there?

Mr. Deutch: I believe I answered that question.

Mr. Doyle: I didn't hear you.

Mr. Deutch: I do not believe it was made by anyone at Cornell University.

Mr. Doyle: Of any university?

Mr. Deutch: To the best of my recollection—

Mr. Jackson: Did you personally know this individual from whom you received the money?

Mr. Deutch: Yes.

Mr. Jackson: Do you personally at this moment know his name?

Mr. Deutch: That is right, sir.

Mr. Jackson: Very well.

Mr. Tavenner: Were you ever a member of the Downtown Club of the Communist Party in Ithaca?

Mr. Deutch: I don't believe so.

Mr. Tavenner: Did you attend meetings of that group?

Mr. Deutch: No. That is, I don't believe so. The reason I wonder is because that organization became defunct so that there was really no organization. Downtown was Uptown, and there were so few people that I just want to qualify that statement.

Mr. Tavenner: Are you now a member of the Communist Party?

Mr. Deutch: No, sir.

Mr. Tavenner: When did you withdraw from the Communist Party?

Mr. Deutch: The conviction of mine was gradual and for many years as probably—Mr. Richardson knows what my feelings were—but I haven't attended any Communist function at all, nor do I intend to for at least the last 8 months. I have had no contact or given money to—

Mr. Tavenner: What was the last—I didn't mean to cut you off.

Mr. Deutch: Or given any money or anything like that and I don't regard myself as a person under discipline of the Communist Party.

Mr. Tavenner: When were the last meetings of the Communist Party which were attended by you?

Mr. Deutch: My memory isn't too good. It was with Mr. Richardson, so his guess is as good as mine. It was [fol. 221] either the end of the term of 1953 or maybe one time in the summer—I don't remember too exactly.

Mr. Scherer: It was within the last year, however; right?

Mr. Deutch: Just about.

Mr. Tavenner: Were you at any time a member of the central committee of the Communist Party at Ithaca?

Mr. Deutch: "I don't know what that means—that is, I was told I was a sort of a head of a graduate group, but since there was only one graduate student—that was me—Mr. Richardson had me go around to meetings, but that was again by nature of the fact that I was the only person in the group.

Mr. Jackson: How many people were in attendance at the meetings?

Mr. Deutch: During what time?

Mr. Jackson: During the period immediately before you separated from the party.

Mr. Deutch: Very few. Maybe a maximum of 4 or 5, that I can recall.

Mr. Jackson: Where were these meetings held?

Mr. Deutch: I believe this is the type of question I can't answer.

Mr. Jackson: You mean this is the type of question you won't answer; is that correct?

Mr. Deutch: Well, whichever way you want to say it; yes, sir.

Mr. Scherer: Let me ask you this question. You knew where the meetings were held?

Mr. Deutch: I don't believe I know exactly where they were. This is because—since Mr. Richardson drove me there.

[Witness laughs.]

Mr. Scherer: Of course this is not a funny matter.

Mr. Deutch: No.

Mr. Doyle: Do you think it was a private residence?

Mr. Deutch: I don't think it would be considered a private residence.

Mr. Doyle: At an apartment house or flat?

Mr. Deutch: Private house, I would say.

Mr. Scherer: You know the names of the owners of the home or apartment where these meetings were held?

Mr. Deutch: I probably did. At this moment I can't recall. I didn't know them by their last names.

Mr. Scherer: What were their first names?

Mr. Deutch: I don't believe I can say. It is very—

Mr. Scherer: When you say you don't believe you can say, are you referring to your answer for the reason heretofore advanced?

Mr. Deutch: I do refuse to answer, but on this particular question I don't believe I remember. Just for the record, I will say, even if urged and if I knew, I would say the same thing.

Mr. Scherer: You are refusing to answer then, even if you knew the names of the people?

Mr. Deutch: That's right.

Mr. Doyle: Was this place at the last meeting—this private home—the same place at which you attended other meetings with Mr. Richardson?

Mr. Deutch: The last meeting may have been with Mr. Richardson.

Mr. Doyle: Just you and he alone?

[fol. 222] Mr. Deutch: Possibly.

Mr. Doyle: Well, now think—was there some other person there besides you and Mr. Richardson?

Mr. Deutch: I believe it was Mr. Richardson, and if he is positive about this other point, it would be this other meeting.

Mr. Doyle: May I say that my point is—had you gone to the same meetings before?

Mr. Deutch: Yes; with Mr. Richardson.

Mr. Doyle: How many times—about?

Mr. Deutch: Maybe 4 or 5 times.

Mr. Tavenner: Were you acquainted with Homer Owen?

Mr. Deutch: I don't think I should discuss any people from now on because some people I am acquainted with and some I am not, so I don't think I want to discuss the people's names.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: My refusal about this or any other names does not mean anything incriminating about the gentleman.

Mr. Tavenner: I suggest the witness be directed to answer.

Mr. Jackson: The witness is directed to answer.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: I will have to refuse on the same grounds.

Mr. Jackson: No, you don't have to. You are under no compulsion. Do you decline to answer the question?

Mr. Deutch: Yes, I decline to answer the question.

Mr. Tavenner: Will you tell the committee the circumstances under which you became a Communist Party member?

Mr. Deutch: Well, this was many years ago. Not that I became a Communist Party member, but from the age of 13 or 14 I had read many books on Marxism and at that time was very much impressed with trying to solve certain of the injustices we have nowadays. I believe in high school I became, or joined the A. Y. D. [American Youth for Democracy] for a period of time. I was very much influenced at this time by the ideas in—

Mr. Tavenner: What high school was this?

Mr. Deutch: I wasn't in a high school branch. There wasn't any high school branch.

Mr. Tavenner: You said you joined while at high school. What high school?

Mr. Deutch: The Brooklyn Technical High School.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: The A. Y. D. wasn't connected with a high school.

Mr. Scherer: Mr. Deutch, it seems to me it is more important that you answer these questions than most people who have been before this committee, because you were in the party during the last few years. We have abundant evidence before this committee that anybody who remained in the party up to a year ago was a potential agent of the Kremlin—there is no question about it. There is some excuse for those who were in the party in the late thirties or forties, but not after 1951 or 1952. Therefore it is more important that you answer these questions than most people.

Mr. Deutch: I stated previously that I am not a member of the Communist Party now.

Mr. Scherer: But you have information concerning the activities of the Communist Party within the last year.

[fol. 223] (At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: When I was in the Communist Party about all that happened were bull sessions on Marxism, and some activities like giving out a leaflet or two. The people I met didn't advocate the overthrowing of the Government by force and violence, and if they had, I wouldn't have allowed it.

Mr. Jackson: How do you know whether or not the people with whom you associated did not advocate the overthrow of the Government by force and violence?

Mr. Deutch: This is in my experience.

Mr. Jackson: That is to say, you were never approached about it, nevertheless—

Mr. Deutch: I was never approached about any criminal act, nor were any theories they—

Mr. Scherer: But you do know the ultimate objectives of the people who were perhaps the leadership in the party?

Mr. Deutch: I am describing the people I knew.

Mr. Scherer: But you haven't told us the people you knew.

Mr. Jackson: Mr. Counsel, do you have any further inquiry of this witness? I can see no useful purpose in continuing this questioning.

Mr. Tavenner: Yes, I have a few. You stated, Mr. Deutch, that while at high school you became a member of the AYD. For the record, what organization do you refer to when you say that?

Mr. Deutch: That was the American Youth for Democracy.

Mr. Tavenner: You were proceeding to tell us the circumstances under which you became a member of the Communist Party. Will you proceed on that?

Mr. Deutch: Well, at that time I had certain views or ideas, but I didn't act on these views. At that time I believed in marxism. To a great extent it is only fair to say I am a Marxist today—I don't want to deny that. I felt if

I had ideas I shouldn't be half pregnant about them, so when I came to college I was approached and joined.

Mr. Tavenner: By whom were you approached?

Mr. Deutch: I was approached by a student. I don't wish to give his name.

Mr. Jackson: The witness is directed to give the name of the person by whom he was approached.

Mr. Deutch: I decline to give the name.

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Jackson: Do you have anything further, Mr. Counsel?

Mr. Tavenner: Yes, a bit more.

Were you referred to Cornell University, Mr. Deutch?

Mr. Deutch: Yes.

Mr. Jackson: Is the witness here as a result of a subpoena?

Mr. Tavenner: Yes; the witness was subpoenaed to appear at Albany on Friday of last week, which was April 9. The counsel for the witness called me on the 8th and asked that, as a matter of convenience to him, the appearance of his witness be postponed for a few days because of the shortness of time for his appearance after the service of the subpoena. This was agreed to by the subcommittee and counsel was directed to have his client here this morning. That is correct, isn't it?

Mr. Deutch: Yes, sir.

[fol. 224] (At this point Representative Francis E. Walter entered the hearing room.)

Mr. Jackson: Mr. Scherer?

Mr. Scherer: I have no further questions.

Mr. Jackson: Mr. Doyle?

Mr. Doyle: I notice you said you became interested in marxism when you were about 13 years old. You used this language—

It seemed my conviction of mind was I believed it for many years. My conviction of mind was, I believe, for many years.

You are only 25 years old now. You have been a member of the Communist Party in the last year?

Mr. Deutch: I am 24 years old.

Mr. Doyle: 24 years. Why did you stay in the Communist Party for so long? Up to within the year? Why didn't you get out before?

Mr. Deutch: I suppose that is of my own inertia. I did nothing for long time. I was trying to act upon my conviction and yet when I tried to I was somewhat rebuffed and it was extreme inertia actually.

Mr. Doyle: By other people?

Mr. Deutch: There were certain disagreements. I just felt I wasn't doing very much.

Mr. Doyle: You said there was some activity like giving out leaflets. What leaflets did you give out, up to a year ago? What leaflets? Where did you get the leaflets? What did the leaflets advocate?

Mr. Deutch: Well, I think they discussed problems in a shoe factory in upstate New York.

Mr. Doyle: In connection with a strike?

Mr. Deutch: Correct.

Mr. Doyle: Who published the leaflets?

Mr. Deutch: I believe the Communist Party published them.

Mr. Doyle: What Communist Party? Where did you get the leaflets? From the national headquarters?

Mr. Deutch: I don't believe so. It was a local branch.

Mr. Doyle: Where was the office of the local branch from which you got these leaflets?

Mr. Deutch: I didn't know where it was. I was just asked to distribute them.

Mr. Doyle: What?

Mr. Deutch: I was asked to distribute them.

Mr. Doyle: Who asked you to?

Mr. Deutch: Those people I was connected with. I don't remember in detail.

Mr. Doyle: How many of these people who were connected with you do you now refer to? About how many?

Mr. Deutch: Those people who were members of the student branch at Cornell.

Mr. Doyle: About how many people was that?

Mr. Deutch: You mean over the course of years?

(At this point Mr. Deutch conferred with Mr. Sawyer.)

Mr. Deutch: How many were giving out leaflets? Oh, 5 to 10.

Mr. Doyle: That is all, Mr. Chairman.

Mr. Jackson: Mr. Walter?

Mr. Walter: No, no questions.

[fol. 225] Mr. Jackson: Is there any reason why the witness should not be excused?

Mr. Tavenner: No, sir.

Mr. Jackson: Very well. The witness is excused.

(Whereupon, at 11:15 a.m., Monday, April 12, the executive hearing adjourned, subject to a call of the Chair.)

[fol. 226]

GOVERNMENT'S EXHIBIT 6

83d Congress, 2d Session

Union Calendar No. 440
House Report No. 1192

ANNUAL REPORT

OF THE

COMMITTEE ON UN-AMERICAN ACTIVITIES

FOR THE YEAR 1953

FEBRUARY 6, 1954

(Original release date)

FEBRUARY 8, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Prepared and released by the
COMMITTEE ON UN-AMERICAN ACTIVITIES
U. S. HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

**COMMITTEE ON UN-AMERICAN ACTIVITIES
ANNUAL REPORT FOR THE YEAR 1953**

FEBRUARY 8, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

MR. VELDE, of Illinois, from the Committee on Un-American Activities, submitted the following

REPORT

[Pursuant to H. Res. 5, 83d Cong.]

[fol. 228]

**INVESTIGATION OF COMMUNIST ACTIVITIES IN THE
ALBANY, N. Y., AREA**

During the past few years the investigations by the House Committee on Un-American Activities have developed the fact that the Communists have exerted strong efforts to infiltrate the important area of Albany, N. Y. As a result of the information gathered by the investigative staff of the committee, a subcommittee was appointed to hold hearings in Albany during the month of July 1953.

At this time the committee was fortunate in securing the cooperation of a citizen of Canada who, as a former member of the Communist Party, possessed information of a very vital character. During the 1950 investigation in Hawaii, the committee obtained leads indicating that the near world-wide shipping strike of 1949 was instigated and executed by the Communists as part of a conspiratorial plan.

to promote certain unknown Communist objectives. It was not until the Canadian, Patrick Walsh, accepted the committee's invitation to appear as a witness in Albany that the committee learned the full inside story of this most significant incident which so clearly demonstrates the international character of the Communist conspiracy. Walsh's graphic description of what is generally referred to as the Canadian Seamen's Union strike of 1949 is the first time the story has been publicly told.

Walsh's testimony demonstrates what a serious matter it is to permit individuals who are subject to the directives and discipline of the Communist Party to be placed in sensitive positions of leadership and responsibility. It suggests the necessity of congressional consideration of new means and methods of enlarging the provisions of the Internal Security Act, tightening its present provisions, and hastening its enforcement.

Mr. Walsh, in describing his background, said that he had first become associated with communism at the age of 17 or 18, when he became a member of the Young Communist League. He later received instructions in Marxism from Fred Rose, who in 1946 was tried and sentenced by Canadian courts for having conspired to pass secret documents to the Soviet Embassy in Canada. The further activities of Walsh during his early days in the Communist Party, while they relate strictly to Canada, are of interest because they so closely parallel the activities of the Communist Party in the United States and further establish the international conspiratorial aspects of communism.

Mr. Walsh testified that in 1940, he was ordered by the Communist Party to enlist in the Canadian Army in order to carry on "revolutionary defeatism" because, since this was the period of the Hitler-Stalin Pact, the Communists were claiming that the war between Britain and Germany was an "imperialist" one.

After the invasion of the Soviet Union, the line of the Communist Party changed to all-out mobilization. Walsh testified that while in England, France, and Belgium, [fol. 229] he met with Communists of those countries and, further, that there were occasions when he met with members of the American Armed Forces who were also members

of the Communist Party. During this period, on instruction of Communist officials, Walsh and other Communists in the Armed Forces of Great Britain and the United States appeared at public gatherings to agitate for a second front.

Following the war, Walsh was instructed by Communist leaders to become a member of the Canadian Seamen's Union, although he had no previous training as a seaman. This was during the period shortly after the formulation of the Marshall plan for aid by the United States to foreign countries. Mr. Walsh explained that Communist leaders made the claim that they had Communists aboard nearly every deep-sea ship. Mr. Walsh stated that after joining the Canadian Seamen's Union, he became a galley boy aboard a Canadian ship, the *Mont Rolland* as a cover for his Communist activities. His instructions were to contact the dockers in the various ports where the ship stopped and insure that there was complete solidarity in a forthcoming strike which the Communists were inspiring. In his testimony, Walsh left no doubt as to the true purpose of the strike. He said:

Yes; I will prove later on in my testimony that this strike was a political strike which had no bona fide trade-union principles involved whatsoever and that it was being ordered by the Cominform, which is the international section and which faithfully carries out the dictates of the Soviet Union, that this strike was being organized with the end in view of tying up shipping in ports all over the world so that Marshall plan shipments would not be delivered in time or the cargoes would rot and at the same time it was expected to deal a crippling blow to the Atlantic Pact which the Communists were vigorously opposing at that time all over Europe.

The formation of the Communist conspiracy to tie up shipping in ports all over the world; thereby dealing a crippling blow to the Marshall plan and the Atlantic Pact, and the acts done in furtherance of the objectives of this conspiracy, were graphically outlined by the witness. Walsh testified that on the arrival of his ship, the *Mont Rolland*,

in the port of Genoa, he received a notice to report to the office of the General Federation of Italian Labor. At this meeting he became acquainted with most of the top Communist agitators in the maritime section of the Cominform. There were about 40 people present; among them were Andre Fressinet, general secretary of the Seamen's and Dockers' international section of the World Federation of Trade Unions; Marino De Stefano, a leader at that time of the Italian Seamen's Union, a Communist-dominated and controlled organization; Hoiting of the Dutch Seamen's Union; Van Den Branden, of the Antwerp Dockers Action Committee; Otto Schmidt, an official of the Austrian Inland Transportation Workers, another Communist union affiliated with the World Federation of Trade Unions; Salvadore Gomez, of the underground Communist Party of Spain; Luigi Longo, a prominent leader of the Italian Communist Party and former political commissar of the International Brigades in Spain; Jock Hastings, a well-known Communist agitator from the British Dock Workers Rank and File Committee; Pontikos, claiming to represent the Greek Maritime Federation; and Lazaro Pina, an official or former official of the Cuban General Workers Federation.

[fol. 230]. The main speaker was Andre Fressinet. The nature of the conspiracy is best described by quoting the witness' statement of what occurred at this meeting:

So, Fressinet's speech was to the effect that the Marshall plan to aid Europe or to aid the underfed populations of Europe would defeat the Communist Party plans in Italy and in France particularly, where the Communists were busy exploiting the discontent that was evident everywhere due to the postwar conditions in these countries.

Now, Fressinet said that originally the plan had been to involve the National Maritime Union at the same time as the Canadian Seamen's Union, so that the strike would be more effective, but in the meantime Fressinet explained that the National Maritime Union had broken away—that is, the leadership had broken away—from the Communist Party and that nearly all the Communist leaders who had been there for a long time

had been expelled. So that they could not count on the National Maritime Union either joining this strike of their own free will or of going on a solidarity strike; but Fressinet pointed out that happily the Canadian Seamen's Union was a union which was not a reactionary one and that it was in the hands of militant comrades and that the shipping tieup which would result in both Canada and the European countries would effectively paralyze all the ports of Europe and would deal a crippling blow to both the Marshall plan and to the Atlantic Pact, because the dockers had been, of course, briefed and approached and ordered to go on strike in all the ports and to tie up shipping, which meant that it was not only the case or the question of tying up Canadian ships. It was the question of—if the ports were paralyzed by these ships, that the strike would spread and that all other ships of other nations, or of Panamanian registry, would then be immobilized and the Marshall-plan cargoes would rot and that sailing schedules would be behind time, and so on and so forth, and that the Communist Party would actively exploit the result of this strike.

Now, after Fressinet spoke, Longo gave an agitational speech in Italian, which I could see was along the same lines. Now, previous to this I had seen copies of *For a Lasting Peace for a People's Democracy*, which is the organ of the Cominform, and I could see the party line against the Marshall plan and the Atlantic Pact was merely being implemented in the speech given by Fressinet.

Now, after Longo's speech, Fressinet asked me to give my opinion of what the strike would be from the CSU viewpoint, and I told him that the members of the CSU were being prepared for the coming strike and that we would certainly play our part and that we had a militant background and that we would certainly contribute our part in seeing to it that the strike was a success.

Now, in referring to the strike, I was given by Fressinet at that meeting the assignment that I should be transferred to the *Beaverbrae*, and that is when I

found out * * * this ship was to be the key ship in the forthcoming strike. * * *

Now, Fressinet told me that it would be very important if I should get on the *Beaverbrae* and that I should take part in the coming London dock strikes, that was from the question of experience and because also that I was held in high esteem by the section—by the maritime section of the Cominform.

Now, I wish to stress the fact that this was not a trade-union meeting. This was a meeting of Communist Party agitators.

In answer to the question of whether or not any matter concerning the welfare of seamen generally, or any resolution regarding a bona fide wage dispute in which the seamen would be interested was discussed at this meeting, the witness replied:

No; and that is something that scandalized me at that time, because, although I knew Communist tactics, I didn't know they could be so blunt as that. There was absolutely no mention whatsoever, and when I suggested to Fressinet that we arrange the agenda before, he told me that it was not necessary, that the main thing was that it was going to be against the Marshall plan and in Europe that we didn't have to find excuses for these things, but that in Canada that it was very obvious we had to convince the rank and file that it was to be carried out for trade-union purposes, involving trade-union principles.

In answer to a question as to whether the rank and file members of the labor union were told the truth as to the reasons for tying up the shipping, the witness replied:

[fol. 231] No. Well, as always in these things, what we said publicly and what we did secretly were two different things. We had to tell the rank and file that negotiations were being stalled by the shipowners, because the shipowners were not going to play ball with the union, and so on and so forth; but in reality the preparations were going on all the time for this strike.

Whether the shipowners signed the contract or agreed to sign the contract or not, the preparations were going on and we didn't bother or care about the negotiations which officially were going on.

With further reference to the occurrences at the Genoa meeting, Walsh testified:

As Lazaro Pina was the only other person coming from the American Continent, it was very important that he should stress the fact that arrangements had been made with Ferdinand Smith who was the former national secretary of the National Maritime Union. . . . Pina had seen Smith on several occasions to map out plans by rank and file committees of dock workers' unions and the National Maritime Union would try and coordinate their work with the CSU strike. . . . The main point of Pina's speech was to assure everyone that the dockers on the east coast would come out in sympathy strike with the CSU strikers and would paralyze the various American ports. . . . The next speaker was Jock Hastings, who represented the dockers rank and file committee of Great Britain. Hastings pointed out that Jack Popovich, alias Jack Popovich, alias Jack Pope, who, incidentally, is the brother of Harry Popovich mentioned previously—that Popovich was to take up residence in Great Britain and in coordination with the Communist Party, would see to it that all the rank and file Communists within the dockers' union would be ready to actively support the forthcoming strike. Hastings also remarked that if this strike could last a year, that not only would the London docks be tied up, but all the other British ports would be so paralyzed that it would effectively paralyze both the Marshall plan and deal a crippling blow to the Atlantic Pact.

[fol. 232] Legislative recommendations contained in Report No. 1, 77th Congress, 1st session, dated January 3, 1941:

Withhold all Federal financial support from any educational institution which permits members of its faculty to advocate communism, fascism, or nazism as a substitute for our form of Government to the student body of these educational institutions. (This particular recommendation is not concurred in by Mr. Voorhis, not because of disagreement with the principle involved but on the ground that the administration of such an act is impossible without risking grave injustice being done to people seeking merely to explain the principles involved in totalitarian philosophy.)

The enactment of legislation to outlaw every political organization which is shown to be under the control of a foreign government. As long as these organizations have a legal status in the United States, it will be difficult for any agency of the Government to deal with them. We now know that they furnish the legal apparatus for the operations of saboteurs, and the window dressing for espionage. The committee believes that legislation can be worked out to outlaw such organizations, and that this will in no sense constitute a violation of the Bill of Rights, since such legislation would only affect organizations controlled or directed by foreign countries.

[fol. 233] Recommendations contained in the annual report of the committee for the year 1950 to the House of Representatives, 81st Congress, 2d session, dated January 2, 1951:

Both in the courts and in hearings before our committee, the informative value of testimony by those who have actually been inside the Communist movement, either as undercover agents or as former party members, has been increasingly demonstrated. In the light of the present world situation and the possible aggravation of the Communist problem, it can be expected that legal prosecutions will increase, making the services of qualified witnesses more and more indispensable in building up evidence. Thought should be given to ways and means of stimulating defections from the

Communist movement and of encouraging qualified informants.

[fol. 234]

SUBSEQUENT ACTION TAKEN BY CONGRESS OR EXECUTIVE AGENCIES ON PAST RECOMMENDATIONS

RECOMMENDATIONS CONTAINED IN ANNUAL REPORT OF
COMMITTEE, 77TH CONGRESS, 1ST SESSION, DATED
JANUARY 3, 1941

Federal aid to educational institutions

4. *Committee recommendation.*—Withhold all Federal financial support from any educational institution which permits members of its faculty to advocate communism, [fol. 235] fascism, or nazism as a substitute for our form of government to the student body of these educational institutions (January 3, 1941).

Outlawing political organizations under foreign control

5. *Committee recommendation.*—The enactment of legislation to outlaw every political organization which is shown to be under the control of a foreign government (January 3, 1941).

Action.—Although no legislation has been enacted, there are 3 bills now pending in the 83d Congress on this subject:

S. 200, dated January 7, 1953, and *H. R. 5941*, dated June 25, 1953, outlaw the Communist Party (under its present name or under any name it may use in the future) or any other organization whose purpose is to overthrow the Government of the United States. A fine of not more than \$10,000, imprisonment of not more than 10 years, or both, plus forfeiture of citizenship, are imposed upon members of such party.

H. R. 1576, dated January 13, 1953, prohibits the printing of the name of a member of the Communist Party or any

un-American party on any ballot for an office in the Government of the United States. Provides a penalty for violation thereof, of a fine up to \$25,000 and up to 10 years imprisonment.

[fol. 236]

RECOMMENDATIONS CONTAINED IN ANNUAL REPORT OF
COMMITTEE, 80TH CONGRESS, 2D SESSION, DATED
DECEMBER 31, 1948

Penalty for Contempt of Congress

24. *Committee recommendation.*—That the penalties for those properly cited for contempt of Congress be increased to a minimum of 5 years in prison and a \$5,000 fine (December 31, 1948).

Action.—No legislation enacted.

[fol. 237] *Employment of subversives in defense plants—safeguards*

29. *Committee recommendation.*—Adoption of H. R. 3903 (81st Cong.) providing for safeguards against employment of subversive individuals in defense plants (March 15, 1950).

Action.—Section 5 of the *Internal Security Act of 1950* (64 Stat. 992) provides that members of a Communist-action organization shall not hold employment in a defense facility, and that members of a Communist-front organization must disclose such membership when seeking or [fol. 238] holding employment in a defense facility. For text of this section, see appendix, page 159.

[fol. 239] *Encouragement of qualified informants against Communist movement*

37. *Committee recommendation.*—Ways and means of stimulating defections from the Communist movement and of encouraging qualified informants (January 2, 1951).

Action.—Although no legislation has been enacted, a bill was introduced in the 82d Congress (H. R. 5331, dated September 13, 1951) which authorized the Attorney General to pay awards to any persons for any information leading to the arrest and conviction of any Communist who has violated any of the internal security laws of the United States.

[fol. 240]

RECOMMENDATIONS BASED UPON INVESTIGATIONS
AND HEARINGS IN THE YEAR 1953

During the year 1953 the House Committee on Un-American Activities has received more abundant and detailed testimony to establish that the Communist Party in the United States is in fact a part of an international conspiracy, which has as its purpose the overthrow of our Government by force and violence. There is ever-increasing evidence of the clear and present danger in this conspiracy, and serious consideration must be given to determine whether the ultimate solution is the outlawing of the Communist Party.

Under existing law, enacted largely through the work of the House Committee on Un-American Activities, the Subversive Activities Control Board, after nearly 3 years of public hearings, ruled that the Communist Party is a subversive organization. As provided by law, these findings are now subject to review by the judicial branch of the Government. Further recommendation on legislation to outlaw the Communist Party will await the final decision of the United States Supreme Court.

The Smith Act, passed by the Congress in 1940, contains provisions which prohibit any person from knowingly and willfully participating either individually or with a group in activities which have for their purpose the overthrow or destruction of "any government in the United States by force or violence."

Since the Subversive Activities Control Board has found that the Communist Party is a subversive organization and

the testimony before this committee has also definitely established the conspiratorial nature of the Communist Party, the committee recommends that the Smith Act be amended. This amendment, in the field of the law of evidence, should provide that proof of membership in the Communist Party shall constitute prima facie evidence of violation of the Smith Act.

. . .

The committee further recommends that legislation be enacted to permit as evidence the results of technical surveillance in matters affecting the national security, provided that adequate safeguards are adopted to protect the civil liberties of all citizens.

. . .

Since there has been a widespread abuse and improper use of the fifth amendment by many witnesses who appeared before congressional investigating committees, thereby deliberately thwarting the uncovering of subversive activities—and since evidence has been adduced proving that the Communist Party actually instructs its members to hide behind the fifth amendment—it is recommended that adequate legislation be enacted to provide against this mis-[fol. 241] use of the fifth amendment and the Bill of Rights, which misuse prevents the committee from obtaining facts and information necessary to the proper function of the committee.

. . .

The committee further recommends a study of the anti-Communist oath provision of the Taft-Hartley Act, with the view of strengthening the provision of said act to prevent Communist infiltration into unions.

. . .

The committee further recommends that legislation be enacted to make it a crime for any person or persons unauthorizedly to transport in interstate commerce any Government document falling within a top secret, secret, or confidential classification.

. . .

The committee further recommends that legislation be enacted forbidding the use of the United States mails under second-class mailing privileges to subversive publications emanating either from foreign sources or from sources within the borders of the United States. It is also recommended that the Internal Security Act of 1950 be amended to permit the citing of said publications as subversive.

The committee further recommends that the Foreign Agents Registration Act of 1938 be reexamined to determine its effectiveness in controlling and exposing subversive activities.

The committee further recommends that in any instance where a person holding a commission in the armed services chooses to refuse to answer questions by a duly authorized authority concerning his present or past membership in the Communist Party, such commission should be immediately revoked.

[fol. 242]

FEDERAL AID TO EDUCATIONAL INSTITUTIONS

VETERANS' READJUSTMENT ASSISTANCE ACT OF 1952
(66 STAT. 667)

INSTITUTIONS LISTED BY ATTORNEY GENERAL

SEC. 228. The Administrator shall not approve the enrollment of, or payment of an education and training allowance to, any eligible veteran in any course in an educational institution or training establishment while it is listed by the Attorney General under section 3 or part III of Executive Order 9835, as amended.

Executive Order 9835, part III, section 3 (12 F. R. 1935, issued March 21, 1947), read:

"The Loyalty Review Board shall currently be furnished by the Department of Justice the name of each foreign or domestic organization, association, movement, group, or combination of persons which the Attorney General, after

appropriate investigation and determination, designates as totalitarian, Fascist, Communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

"a. The Loyalty Review Board shall disseminate such information to all departments and agencies."

[fol. 243]

GOVERNMENT'S EXHIBIT 7

84th Congress, 1st Session

Union Calendar No. 19
House Report No. 57

COMMITTEE ON UN-AMERICAN ACTIVITIES

ANNUAL REPORT

FOR THE YEAR 1954

JANUARY 26, 1955

(Original Release Date)

FEBRUARY 16, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Prepared and released by the
COMMITTEE ON UN-AMERICAN ACTIVITIES
U. S. HOUSE OF REPRESENTATIVES
WASHINGTON, D. C.

**COMMITTEE ON UN-AMERICAN ACTIVITIES
ANNUAL REPORT FOR THE YEAR 1954**

FEBRUARY 16, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. VELDE, of Illinois, from the Committee on Un-American Activities, submitted the following

REPORT

[Pursuant to H. Res. 5, 84th Cong.]

[fol. 245]

ANNUAL REPORT FOR THE YEAR 1954**FOREWORD**

This Annual Report of the Committee on Un-American Activities for the year 1954 is submitted to the House of Representatives in compliance with that section of Public Law 601 (79th Cong.) which provides: "The Committee on Un-American Activities shall report to the House (or to the Clerk of the House, if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable."

During the year 1954, the Committee on Un-American Activities held hearings in Albany, N. Y.; Chicago, Ill.; Dayton, Ohio; Flint and Lansing, Mich.; San Diego, Calif.; Seattle, Wash.; Portland, Oreg.; Miami, Fla.; as well as numerous hearings in Washington, D. C. By holding hearings in these various cities throughout the country, the committee was able to secure the informed testimony of

a great many more witnesses than would have been possible had hearings been held only in Washington, D. C. These on-the-spot hearings also provided another benefit by giving thousands of American citizens their first view of the operations of a committee of their Congress.

The committee is proud to report that in every instance where hearings were conducted throughout the country, the public and the press heartily endorsed the committee's operations. The vital nature of the committee's work and the fairness of the committee proceedings served to dispel a great many erroneous impressions that had been created in many places relative to this committee.

The House Committee on Un-American Activities, in its official function during the 83d Congress, called before it in either public or executive session nearly 600 witnesses. As in previous Congresses, the majority of these witnesses refused to furnish the committee the information they were alleged or known to possess concerning subversive activities; however, a greater number of witnesses than ever before did give the committee testimony concerning their personal involvements in subversive groups. The number of pages of factual testimony received by the committee during the 83d Congress is approximately twice as great as that received by it during any preceding Congress.

In order that these witnesses might be heard and their testimony recorded under oath, it has been necessary for the members of the Committee on Un-American Activities to devote an unprecedented amount of time to their duties with this committee.

Over the past 16 years the House committee, as well as the Special Committee on Un-American Activities, has made numerous recommendations for the enactment of new legislation or the strengthening of existing laws dealing with subversive activities. Over all of this time the members of these committees recognized that legislation dealing with the internal security of our great Nation was woefully inadequate. It was not until 1950 that the Congress realized the necessity for immediate legislation. In that [fol. 246] year, after extensive legislative hearings by the House Committee on Un-American Activities, commenced in 1947, Congress passed the Internal Security Act of 1950

(McCarran-Wood Act). This vital legislation is still, after 4 years, undergoing the tedious but necessary court tests to establish its constitutionality. The committee noted with interest the recent finding of the United States Court of Appeals for the District of Columbia Circuit, which decision confirmed the findings of the Subversive Activities Control Board that the Communist Party must register and conform to other provisions of the Internal Security Act.

During 1954 the House of Representatives implemented by legislation a number of past recommendations of the Committee on Un-American Activities. The committee in its annual report for the year 1953 detailed the past recommendations made by this committee and the Special Committee on Un-American Activities. It is worthy of note that at the commencement of 1954 all but 8 of the committee's 47 recommendations had been favorably acted upon by Congress or the executive branch.

Early in 1954 the Attorney General of the United States advised the Congress that certain legislation was considered necessary to strengthen effectively the national security. Four of these recommendations by the Attorney General were embraced within those previously made by the committee. These were for capital punishment in instances of espionage committed in time of peace; immunity for certain witnesses appearing before duly authorized Federal bodies; for the admissibility of evidence secured by wiretapping or technical devices; and for legislation to break Communist control over certain labor unions. The Congress in 1954 passed and the President signed into law three of these recommendations originally proposed by this committee and subsequently requested by the Attorney General. A law permitting the use of evidence secured by technical devices in cases involving espionage and matters relating to internal security passed the House but did not obtain approval in the Senate.

On the basis of hearings and investigations, the committee during 1954 issued several reports to the Congress and the American people. The first of these reports was "Colonization of America's Basic Industries by the Communist Party of the U. S. A." This report reflects the committee's findings on the Communist Party's endeavors to secure a

foothold in the vital basic industries of this country. The committee points out in this report that the Communist Party had directed its intellectuals and white-collar workers to leave employment in their own chosen fields and to obtain positions in industries vital to defense, such as steel, electricity, and the maritime. In many cases, persons were required to leave their homes and travel to distant cities in order to carry out this Communist directive. The committee issued this report to warn and alert the Congress and the industries involved regarding these efforts by the Communist Party in the United States.

The committee also released for the information of the Congress and the American public a booklet on the background and work of the committee entitled, "This Is Your House Committee on Un-American Activities." The booklet contained 116 questions and answers relative to the work of the committee, together with considerable statistical data on matters pertaining to the various aspects of the committee and its functions. An effort was made to provide answers to the many questions that Members of Congress and the committee have been asked regarding the committee. Due to the heavy demand for the booklet, the limited supply was almost immediately exhausted.

In the annual report of the Committee on Un-American Activities for the year 1953, it was noted that the committee was engaged in a continuing study and investigation of the activities of groups which, while posing as super-patriotic defenders of "life, liberty, and the pursuit of happiness," were in reality neofascist or "hate" groups. Recognizing the threat posed by the activities of racist hatemongers, the committee instructed the staff to prepare a preliminary report on this subject. After a comprehensive study by the committee staff, the members approved the release of a "Preliminary Report on Neo-Fascist and Hate Groups." The report by no means exposes all of the facets of this problem, but rather deals with two glaring examples, one a neofascist and the other a "hate" group. The committee found that the National Renaissance Party was an open and avowed fascist group and the Department of Justice was requested to ascertain whether prosecution of its leaders under the provisions of the Smith Act was possible.

One of the most frequent of the many false claims made by the Communist Party is that it has had appreciable success in its efforts to recruit members from among American Negroes. In order to establish the falsity of these claims the committee prepared and released a report entitled, "The American Negro in the Communist Party." This report reflects the testimony of witnesses eminently qualified to furnish information relative to the Communist Party's efforts to infiltrate and gain control over American citizens of the Negro race. The committee found great satisfaction in being able to report that the Communist Party has had but infinitesimal success in its recruitment efforts among the 15 million American Negroes.

The committee also reported the details of an exhaustive investigation and hearings relating to a publication, which while posing as a legitimate trade-union journal, is in reality nothing more than a mouthpiece for Communist propaganda. The "Report on the March of Labor" clearly establishes the Communist "front" character of that publication.

In addition to the hearings and reports of the committee during 1954, there has been continued the singularly valuable service provided to Members of Congress, congressional committees, and duly authorized agencies of the Federal Government by the committee's files and reference service. With the ever-increased interest aroused by the expanded knowledge of subversive activities, there has been a proportionate increase in requests for information from the committee.

INVESTIGATION OF COMMUNIST ACTIVITIES IN VARIOUS CITIES AND STATES

ALBANY, N. Y.

The House Committee on Un-American Activities commenced hearings in Albany, N. Y., in July 1953, which dealt principally with the strong efforts of the Communist Party to infiltrate the important area of Albany, N. Y., and the New York State government.

[fol. 248] On April 7 through April 9, 1954, a subcommittee of the Committee on Un-American Activities resumed

hearings in Albany, dealing principally with Communist infiltration of vital defense industries and education within the capital area and throughout the State of New York and adjacent States.

The committee was furnished valuable testimony by John Patrick Charles, John Edward Marqusee, Emmanuel Ross Richardson, Joseph Klein, and Jack Davis, all of whom testified concerning not only Communist activities in the Albany area, but also throughout New York State and bordering States. Both Mr. Charles and Mr. Richardson, until 1950 and 1953, respectively, were undercover agents in the Communist Party for the FBI. Some 14 other persons identified as having been members of the Communist Party appeared before the committee and refused to answer committee questions, claiming the privilege of the fifth amendment.

Mr. Leo Jandreau, former business agent for United Electrical Radio and Machine Workers of America, Local 301, General Electric Workers, Schenectady, N. Y., who at the time of his testimony was business agent for IUE-CIO, Local 301, testified that he had never been a member of the Communist Party.

Mr. Bernhard Deutch was identified as having been a member of a graduate group of the Communist Party while attending a prominent university in upper New York State (Cornell). Mr. Deutch was subpoenaed before the committee in Washington, D. C., on April 12, 1954, and questioned concerning his knowledge relative to his Communist Party membership and associations. He testified that he had been a member of the Communist Party until about the summer of 1953. However, he also stated "To a great extent, it is only fair to say, I am a Marxist today—I don't want to deny that." Aside from mentioning his own Communist Party membership, he refused to give the committee the benefit of his knowledge and information concerning his Communist Party activities and associations.

Thereafter, on May 11, 1954, after unanimous vote by the committee itself, the House of Representatives, by vote of 346 to 0, cited Bernard Deutch for contempt of Congress.

[fol. 249]

RECOMMENDATIONS BASED UPON INVESTIGATIONS AND HEARINGS IN THE YEAR 1954

Many of the recommendations put forth by the House Committee on Un-American Activities for the year 1953 have already been enacted into law in one form or another. Among them are legislation cracking down on Communist-dominated labor unions, death penalty for espionage in peacetime, immunity for witnesses appearing before congressional committees, and the adoption of procedures withdrawing commissions from persons in the armed services taking the fifth amendment when questioned by a duly authorized authority concerning membership in the Communist Party.

In addition, Congress considered the delicate subject of outlawing the Communist Party and has enacted a partial outlawing provision which is now in effect.

The following recommendations are submitted based upon investigations and hearings, in the year 1954.

[fol. 250] The Smith Act, passed by the Congress in 1940, contains provisions which prohibit any person from knowingly and willfully participating either individually or with a group in activities which have for their purpose the overthrow or destruction of "any government in the United States by force or violence." Since the Subversive Activities Control Board, affirmed by the United States Court of Appeals for the District of Columbia Circuit, has found that the Communist Party is a subversive organization and the testimony before this committee has also definitely established the conspiratorial nature of the Communist Party, the committee recommends that the Smith Act be amended. This amendment, in the field of the law of evidence, should provide that proof of membership in the Communist Party shall constitute prima facie evidence of violation of the Smith Act.

The committee further recommends that legislation be enacted to permit as evidence the results of technical surveillance in matters affecting the national security; provided that adequate safeguards are adopted to protect the civil liberties of all citizens.

The committee further recommends that legislation be enacted to make it a crime for any person or persons unauthorizedly to transport in interstate commerce any Government document falling within a top-secret, secret, or confidential classification.

The committee further recommends that legislation be enacted forbidding the use of the United States mails under second-class mailing privileges to subversive publications emanating either from foreign sources or from sources within the borders of the United States. It is also recommended that the Internal Security Act of 1950 be amended to permit the citing of said publications as subversive.

The committee further recommends that the Foreign Agents Registration Act of 1938 be reexamined to determine its effectiveness in controlling and exposing subversive activities.

The committee further recommends that appropriate legislation be enacted requiring an affidavit by any person bidding for a Government contract, that he is not now and has not been within the past 10 years a member of any organization advocating the overthrow of the Government by force and violence.

[fol. 251]

DEFENDANT'S EXHIBIT 1

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

"No. 13,060"

UNITED STATES OF AMERICA, Appellant

v.

BERNHARD DEUTCH, Appellee

STIPULATION.

It is hereby stipulated by and between the parties as follows:

1. Attached hereto and designated as Defendant's Exhibit No. 2, for identification are printed excerpts from:

- a. Designated official publications of the Committee on Un-American Activities of the House of Representatives.
- b. Statements made by designated representatives from the floor of the House of Representatives, copies from the Congressional Record.
2. Attached hereto and designated as Defendant's Exhibit No. 3, for identification are partial summaries of the Testimony of designated persons before the Committee on Un-American Activities of the House of Representatives and the Jenner Committee, the forum and the date of the testimony being designated in each instance.
3. The foregoing excerpts are true and accurate transcripts of what they purport to be and they and the partial summaries shall be admissible in evidence at the trial of this case in lieu of the originals and the same as if they were the originals of the excerpts and partial summaries which they purport to be.
4. Either party shall have the right to object to the introduction of the excerpts in evidence and partial summaries on the ground of materiality, relevancy and competency [fol. 252] provided that no objection shall be made on the ground of the best evidence rule or hearsay.
5. Either party shall have the right, nevertheless, affirmatively to show any inaccuracies in the substance or in the reproduction of said excerpts and partial summaries from the originals of what they purport to be.

/s/ WILLIAM HITZ
William Hitz

/s/ HENRY W. SAWYER, III
Henry W. Sawyer, III

[fol. 253]

DEFENDANT'S EXHIBIT 2

HEARINGS COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

Eighty-third Congress

INVESTIGATION OF COMMUNIST ACTIVITIES IN THE
ALBANY, N. Y. AREA

Part 3

April 7, 1954

Page 4352.

Mr. Tavenner: I am reminded about the name of Homer Owen. I should state that Mr. Owen has testified in executive session before the committee and has fully co-operated with it, and that he is no longer a member of the Communist Party and has not been for some time.

[fol. 254]

HEARINGS COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES

Eighty-third Congress

INVESTIGATION OF COMMUNIST ACTIVITIES IN THE
ALBANY, N. Y. AREA

Part 4

April 8, 1954

Page 4357.

Mr. Tavenner: As a result of the suggestion that was made to you by the Federal Bureau of Investigation, did you accept the invitation that was extended to you?

Mr. Richardson: Yes; I did.

Mr. Tavenner: Then you became a member of the Communist group at Cornell?

Mr. Richardson: That's true.

Mr. Tavenner: Will you tell the committee, please, just what you did when you first became a member?

Mr. Richardson: When I first became a member they assigned me to the Labor Youth League, which is a sort of training for future Communist members.

Mr. Tavenner: But were you already a member of the Communist Party at the time you were assigned to that group?

Mr. Richardson: That's true.

Mr. Scherer: You joined the party with full knowledge of the Federal Bureau of Investigation?

Mr. Richardson: That's true.

Mr. Scherer: And did you make reports to the FBI during the time that you were a member of the party?

Mr. Richardson: I made periodic reports.

Mr. Scherer: How often?

Mr. Richardson: Once a week, or whenever the necessity occurred.

• • • • •

[fol. 255] [Stamp—United States Court of Appeals for the District of Columbia Circuit—Filed June 18, 1960—Joseph W. Stewart, Clerk]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,694

BERNHARD DEUTCH, Appellant

v.

UNITED STATES OF AMERICA, Appellee

Appeal from the United States District Court
for the District of Columbia

OPINION—June 18, 1960

Mr. Henry W. Sawyer, III, of the bar of the Supreme Court of the United States, pro hac vice, by special leave of court, with whom Mr. George Herbert Goodrich was on the brief, for appellant.

Miss Doris Spangenburg, Assistant United States Attorney, for appellee. Messrs. Oliver Gasch, United States Attorney, Carl W. Belcher, Lewis Carroll, William Hitz, and Harold D. Rhynedance, Jr., Assistant United States Attorneys, were on the brief for appellee. Mr. John D. Lane, Assistant United States Attorney, also entered an appearance for appellee.

Before Washington, Bastian and Burger, Circuit Judges.

BASTIAN, Circuit Judge: This is a contempt of Congress case arising from a hearing held by a subcommittee of [fol. 256] the House Committee on Un-American Activities. Appellant Deutch was indicted for contempt for his refusal to answer certain questions.¹ He was tried in the District Court by a judge sitting alone (jury having been waived), convicted and sentenced on four of the five counts of the indictment.² On appeal, appellant urges that the subject matter under inquiry and the pertinency to that subject matter of the questions set forth in the indictment were not proved by the Government beyond a reasonable doubt to have appeared with indisputable clarity at the time of the subcommittee hearing. Appellant also attacks the legislative purpose of the investigation and the power of the committee to engage in exposure. He also objects to the

¹ The questions listed in the indictment (the numbering being that of the counts) were these:

1. The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party. Will you tell us who that member of the faculty was?

2. Will you tell the committee, please, the source of that \$100 contribution, if it was made?

3. Where were these meetings held?

4. Were you acquainted with Homer Owen?

5. The witness is directed to give the name of the person by whom he was approached.

² The circumstances under which the appeals in this case and seven other contempt of Congress cases came on for hearing in this court appear in footnote 2 of the opinion in No. 13,464, *Gojack v. United States*, decided this day.

admission of certain documentary evidence at the trial. Lastly, he relies on his rights under the First Amendment.

In July 1953, the committee began hearings in Albany, New York, in connection with a general investigation of [fol. 257] communist activities in that area.³ At these hearings, there was testimony to the effect that during the period 1947-1953 a communist cell was active on the campus of Cornell University and that students enrolled at the university were accepting positions with communist-controlled labor unions. The committee also received information that appellant had participated in this communist activity and that he might know the name of a professor (theretofore unknown) of the university who had obtained funds for the communist cell. The committee determined to call appellant to inquire into these activities relating to both communism in education and communist infiltration into labor unions.

Thereafter, the committee interrupted the Albany hearings and announced that further hearings were postponed until a later date. The hearings were resumed in Albany in April 1954. At the commencement of the reopened hearing (April 7, 1954), the Chairman of the subcommittee made the following statements:

"This committee is charged by the Congress of the United States with the responsibility of investigating the extent, character, and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries, or of a domestic origin, and attacks the principles of the form of government as guaranteed by our Constitution and all other questions in relation thereto that will aid Congress in any necessary remedial legislation.

³ The committee had also, on February 25, 1953, begun a series of hearings on communist infiltration into education, and on that day the Chairman of the committee made a full and complete statement of the purposes of the investigation. The material portions of the opening statement of the Chairman appear in note 31 of the Supreme Court's opinion in *Barenblatt v. United States*, 360 U.S. 109, 130-131.

"The Committee on Un-American Activities will resume this morning the investigation of Communist [fol. 258] Party activities within the capital area. This is a continuation of the open hearings which were conducted in Albany between July 13 and 16, 1953. The investigation has been extended into adjacent areas, from which witnesses are also expected to be heard.

"A public announcement was made in January that hearings would be resumed here at a much earlier date, but due to my desire not to interfere with sessions of the Federal court, and for reasons beyond the committee's control, it became necessary to postpone them until this time.

• • • • •

"Other testimony taken at the 1953 Albany hearings related to the efforts of the Communist Party to infiltrate industry and other segments of society in the capital area. Testimony now to be heard is expected to supplement that formerly given on this subject and as indicated will extend into adjacent areas.

"I want to emphasize what I have stated hitherto, namely that the committee is not concerned with the political beliefs or opinions of any witness. It is concerned only with facts showing the extent, character, and objects of Communist Party activities within the areas from which the witnesses are subpoenaed.

"I desire also to make it clear that this committee is not interested in any dispute between management and labor or with internal disputes within the field of labor. However, the committee considers that it has a legislative mandate to investigate the extent, character, and objects of Communist Party activities wherever evidence of its existence is found, and this it proposes to do.

"This committee is not investigating labor unions, but it is investigating communism within the field of labor where it has substantial evidence that it exists. Such an investigation is particularly pertinent at this time when the Committee on Un-American Activities is engaged in the study of H. R. 7487 which has been

referred by the Speaker of the House to this committee.

"In keeping with the long-standing policy of this committee, any individuals or organizations, whose [fol. 259] names are mentioned during the course of the hearing in such a manner as to adversely affect them, shall have an opportunity to appear before the committee for the purpose of making a denial or offering an explanation of such adverse information."

One of the witnesses called on April 7, 1954, testified as to communist activities at Cornell University from 1947 to 1951. On April 8, 1954, another witness⁴ testified that he [the witness] became a member of the communist group at Cornell and was assigned to the Labor Youth League, "which is a sort of training for future communist members." This witness gave testimony about communist activities at the university and stated that Deutch had acted as a contact man, in 1952 and 1953, between the Communist Party and a member of the faculty whose name was unknown to the witness. He also testified that appellant had received a contribution for the Communist Party from an unknown source. For this reason, appellant was subpoenaed to appear before the committee in Albany on April 9, 1954.

As his counsel protested the shortness of time, appellant was granted a continuance to April 12, when, accompanied by his counsel, he appeared before the committee in executive session in Washington, D. C. He was at that time 25 years of age, a graduate student attending the University of Pennsylvania, having previously studied at Cornell. He was represented at the hearing by the same counsel who represented him in the District Court and in this court, and who had secured the continuance for him. Appellant asked for and was granted frequent opportunities to confer with his counsel. Never once did he indicate unawareness of the purpose of the hearing, or doubt as to the pertinency of the questions. At the outset of the hearing, he was [fol. 260] informed and questioned by the committee counsel, Mr. Tavenner, as follows:

⁴ This witness joined the Communist Party with the full knowledge of and at the request of the Federal Bureau of Investigation.

"Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

"Were you a member of a group of the Communist Party at Cornell?"

After conferring with his counsel, Mr. Sawyer, Deutch responded under protest that he had been a member of the Communist Party. His objection and answer to the question were as follows:

"I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is the committee's enabling legislation. This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party."

Committee counsel continued:

"The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party.

"Will you tell us who that member of the faculty was?"

After again conferring with his counsel, appellant stated:

"Sir, I am perfectly willing to tell about my own activities, but do you feel I should trade my moral scruples by informing on someone else?"

[fol. 261] He was advised that moral scruples on his part "do not constitute a legal reason for declining to answer the question," and he was directed to answer. He declined, stating that he would not answer questions about other people, but only about himself.

Representative Doyle, a member of the subcommittee, then made the following statement:

"The young man read a statement in which he referred to Public Law 601. He no doubt read point 1 in that law in which it states our duty in Congress is to inquire into the extent—that is the language—the extent. Now manifestly our counsel, in asking you the name, etc., goes into the extent of the existence of the Communist cell, don't you see? All Communist activities. I wanted to emphasize that to you because you were referring to Public Law 601 and relying on that in your statement which you read. So I can come right back to you and ask, or call to your attention the fact that under our Congress we have the duty or we are charged with looking into the extent, you see, which the Communist Party has acted. Therefore, you see, I am calling your attention to the fact that this question goes into the extent. I just wanted to call that to your attention, just in case you didn't realize the kind of question that was."

Committee counsel then proceeded to ask the question forming Count 2 of the indictment:

"The committee received testimony from Ross Richardson to the effect that you collected certain donations for the benefit of the Communist Party, and that on one occasion you delivered to him the sum of \$100, without designating to him the source of it. Will you tell the committee, please, the source of that \$100 contribution, if it was made?"

Appellant declined to answer, and thereafter, although directed to do so, specifically refused to answer the question. Count 3 of the indictment is not before us as that count was dismissed by the District Court.

[fol. 262] Committee counsel then asked the question forming Count 4:

"Were you acquainted with Homer Owen?"

Deutch refused to answer, stating that he did not think he "should discuss any people from now on because some people I am acquainted with and some I am not, so I don't think I want to discuss the people's names." He was directed to answer, but again he declined.

Deutch then related why he became interested in the Communist Party but refused to answer questions forming the basis of Count 5 of the indictment as to the identity of the person who had approached him on behalf of the Party. He was directed to answer, but declined, without giving reasons.

Appellant answered all further questions, none of which required him to give the names of other persons.

The District Court found that "the Committee was investigating the infiltration of communism into educational and labor fields," and decided that the questions in Counts 1, 2 and 5 were pertinent, on their face, to that subject.

With respect to Count 4, the court pointed out that Homer Owen had been a student at Cornell University in an industrial relations course and that students in that course did temporary summer work in various labor unions, some of which were communist-controlled; that the committee desired to know what, if any, connection there was between students enrolled in that course and the communist-controlled unions; that the question of whether appellant was acquainted with Homer Owen was obviously a preliminary question that might have led to a line of inquiry within the scope of the inquiry, and, consequently, was a pertinent question.

Appellant was thereupon found guilty and sentenced.⁵
[fol. 263] We believe the Government has proved beyond a reasonable doubt that the subject under inquiry and the pertinency of the questions were made to appear at the

⁵ The opinion of Judge Holtzoff finding the appellant guilty is reported in 147 F.Supp. 89.

committee hearing with "indisputable clarity." See *Barenblatt v. United States*, 360 U.S. 109 (1959); *Watkins v. United States*, 354 U.S. 178 (1957); cf. *Flaxer v. United States*, 358 U.S. 147 (1958). The Supreme Court has indicated that the subject of a legislative investigation is "indisputably clear" when, considering all circumstances which may legitimately control the course of a congressional inquiry and which may be relevant to the awareness of the witness, the nature and purpose of the inquiry have been given such definiteness as to warn a reasonable man on the witness stand of the likelihood of criminal conviction, and to enable a trial court, jury and appellate court to perform their respective functions. See *Barenblatt v. United States*, *supra*; *Watkins v. United States*, *supra*. The pertinency of the questions asked appellant must be decided in the light of similar considerations.

Throughout his testimony, Deutch testified as to his own activities but, in reference to each of the counts under which he was convicted, he declined to answer the questions, not on the ground of pertinency or on any other ground except that it was against his "moral scruples" to answer questions about other people. Nor did he claim that he did not understand how the questions related to the subject under inquiry, or what that subject was. On the contrary, it is quite obvious that he recognized that the questions were pertinent to the subject under inquiry, and he based his refusal to answer solely and simply on the fact that he did not wish to give the names of other persons. That appellant was made fully aware of and was in fact aware of the purpose of the hearing and the pertinency of the questions seems to us to be free from doubt. The trend of the questions and his attitude toward them are significant; and the [fol. 264] above quoted statements made to him by the committee counsel and a committee member clearly indicated the object of the inquiry and the pertinency of the questions. Not until the trial in the District Court, in what appears to be afterthought, did appellant raise the questions of pertinency and unawareness of the subject matter of the inquiry.

Appellant relies upon the objections above quoted, made at the commencement of the hearing at which he testified,

and urges that his objection to the committee's jurisdiction and the constitutionality of the proceedings required explanation by the committee of the subject matter and the pertinency of any questions which might be asked. We cannot agree. It would require real stretching of the imagination to read into the statement made by Deutch an objection to pertinency—or anything that would in the slightest degree indicate that he was unaware of the subject under inquiry.

So far as appellant's claim that the questions involved here violate his First Amendment rights, we think this claim is foreclosed by *Barsky v. United States*, 83 U.S. App.D.C. 127, 167 F.2d 241, *cert. denied*, 334 U.S. 843 (1948), wherein we held that the "nature and scope of the program and activities [of the Communist Party] depend in large measure upon the character and number of its adherents," and that personnel is part of the subject. We do not read *Barenblatt* as to the contrary. As a matter of fact, *Barenblatt* recognized that First Amendment rights are not absolute and that resolution of the issue between those rights and the public interest involves a balance by the courts of the competing interests, and held that Congress should not be denied the power to legislate solely because the field of education is involved. In the present case, prior witnesses had made certain statements but their testimony was inconclusive on the question of personnel. Indeed, we know of no reason why the committee was not entitled to have cumulative evidence of activities in connection with [fol. 265] the continuing communist conspiracy.

We have examined the other contentions of appellant and find them equally without merit.

Affirmed

[fol. 266]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,694

September Term, 1959

Criminal 1152-54

BERNHARD DEUTCH, Appellant

v.

UNITED STATES OF AMERICA, Appellee

Appeal from the United States District Court for the District of Columbia.

Before: Washington, Bastian and Burger, Circuit Judges.

JUDGMENT—June 18, 1960.

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof it is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

Per Circuit Judge Bastian.

Dated: June 18, 1960.

[fol. 267] Clerk's Certificate to Foregoing Transcript (omitted in printing).

[fol. 268]

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—October 10, 1960

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

COPI

FILED
JUL 13 1960
JAMES R. BROWN

IN THE

Supreme Court of the United States

October Term, 1960.

No. 233

BERNHARD DEUTCH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT.

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IN THE
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BERNHARD DEUTCH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT.**

*To the Honorable the Chief Justice of the United States
and the Associate Justices of the Supreme Court of
the United States:*

Petitioner, Bernhard Deutch, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia in this case.

OPINIONS BELOW.

The judgment and sentence of the District Court are reported in 147 F. Supp. 89; the opinion appears on pages 27 to 31, inclusive, of the Joint Appendix and the judgment and commitment appear on pages 33 and 34 of the Joint Appendix. The opinion of the Court of Appeals has not been reported but is printed in Appendix A. *infra*, pp. 1a-11a.

JURISDICTION.

The opinion and judgment of the United States Court of Appeals for the District of Columbia Circuit affirming the conviction were entered on June 18, 1960. Motion for stay of judgment pending filing of this petition was entered on June 28, 1960. The jurisdiction of this court is invoked under 28 USC § 1254(1).

QUESTIONS PRESENTED.

Petitioner appeared in response to a subpoena, and under protest as to the "constitutionality" of the proceeding and the "jurisdiction" of the committee, testified fully before a subcommittee of the Committee on Un-American Activities of the House of Representatives concerning his past activity as a member of a student Communist group on the campus at Cornell. He refused to answer certain questions identifying by name his associates. He was subsequently indicted for contempt and convicted of violating 2 USC § 192. The questions presented are:

1. In determining whether a witness was aware of the subject under inquiry, can he be charged with legal knowledge of statements of subcommittee chairman and of testimony of other witnesses, of which he has no actual knowledge?

2. Is the requirement that the subject matter under inquiry appear to the witness with undisputed clarity waived because the witness, in voicing objection to the committee's jurisdiction to ask the questions, does not specifically object to pertinency?

3. Must the subject of the inquiry proved by the government at trial under 2 USC § 192 be the same as the subject matter covered at the hearing?

4. If the witness was aware of the subject of the hearing, which subject, if proved at trial would sustain

a conviction under 2 USC § 192, may the conviction be sustained if the government at trial proved another subject of which the witness was unaware?

5. May a conviction under 2 USC § 192 be sustained on appeal by finding a subject under inquiry at variance with the subject proved by the government at trial?

6. Where a witness has disclosed every aspect of the activities, character, aims and extent of a student Communist group, withholding only names, is there a valid legislative purpose in the acquisition of such names?

7. In determining whether the First Amendment protected petitioner from compulsory disclosure of past political association, should the doctrine of *Barenblatt v. United States*, 360 U. S. 109 (1959), be extended in favor of the investigative power and in derogation of the protection of the First Amendment?

STATUTES INVOLVED.

2 USC § 192, R. S. 102 (52 Stat. 942), as amended, provides:

“Refusal of witness to testify.

“Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months.”

Petition for a Writ of Certiorari

Public Law 601, Section 121, 79th Congress, 2d Session (60 Stat. 812, 823, 828) provides in relevant part:

"(b) Rule XI of the Rules of the House of Representatives is amended to read as follows:

"Rule XI

"Power & Duties of Committees

"(1) All proposed legislation, messages, petitions, memorials, and other matters relating to the subjects listed under the standing committees named below shall be referred to such committees, respectively: . . .

"(q)(1) Committee on Un-American Activities.

"(A) Un-American activities.

"(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation."

STATEMENT.

The petitioner, Bernhard Deutch, was convicted in the District Court of the District of Columbia for violation of 2 USC § 192 for refusing to answer certain questions before a subcommittee of the House Committee on Un-American Activities. The counts upon which the petitioner was convicted and sentenced to 90 days and a fine of \$100 set forth the questions as follows:

1. The committee was advised that a witness by the name of Ross Richardson has stated that you acted as

liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party. Will you tell us who that member of the faculty was?

2. Will you tell the committee, please, the source of that \$100 contribution, if it was made?

3. [Judgment of acquittal.]

4. Were you acquainted with Homer Owen?

5. The witness is directed to give the name of the person by whom he was approached.

At the time the petitioner was subpoenaed, which was April 7, 1954, he was 24 and a graduate student of physics at the University of Pennsylvania. He had previously been an undergraduate at Cornell University.

The petitioner appeared and with his counsel was shown into an office in which there were several unidentified men; he was sworn and without preamble, the questioning commenced. There is no evidence in the record that the particular subcommittee before whom petitioner appeared ever heard any other witnesses on any subject.

After introductory questions of name and address, committee counsel stated:

"Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

"Were you a member of a group of the Communist Party at Cornell?" [J. A. 56]

The petitioner objected to "the jurisdiction of this committee" and answered "under protest as to its constitutionality". *The petitioner freely answered all questions concerning himself and testified fully as to the activities of the student group but refused to identify individuals by name.* He told the committee that he was no longer a member of the Communist Party, that he had been a member of the student-Communist Party at Cornell and that "when I was in the Communist Party all that happened were bull sessions on Marxism and some activities like giving out a leaflet or two. The people I met did not advocate the overthrow of the government by force and violence and if they had I would never have allowed it."

He stated he had joined the Party at the age of 19 and that the time of his quitting would be approximately the time of the last meeting he attended, to which meeting he was conducted by a Mr. Ross Richardson, the leader of the group and an undercover employee of the FBI. He testified that the group became defunct, that he did not know where the headquarters of the Party was in Ithaca, that the \$100 contribution had not come from a faculty member and that the only faculty member he knew of had quit the Communist Party, as the FBI agent Richardson knew. Petitioner gave considerable further details as to the size and activities of the Cornell group.

In protesting the committee's efforts to obtain the names of his associates, petitioner said, "I think—I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in was not even a professor. The magnitude of this is really beyond reason." To which protest one of the individuals present (who in the committee print is identified as Congressman Jackson) replied:

"That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is

the responsibility of we representatives to determine. That determination cannot rest with you. It may be very true that the individual to whom you have referred is no longer a member of the Communist Party. However, that is a supposition on your part—and a supposition which the committee cannot accept." [J. A. 57]

In reference to the petitioner's having stated that he had moral scruples against informing on others, one of the individuals present (identified in the committee transcript as being Representative Doyle) stated that it was the committee's duty to investigate "all Communist activities" and they were inquiring "into the extent" and that "this question goes into the extent".

At trial, the government offered documentary evidence of statements made by other chairmen of other subcommittees of the House Committee on Un-American Activities at other places (objected to as not having been available to petitioner at the time of his appearance) which established that those chairmen stated that those subcommittees were "investigating Communism within the field of labor" (App. A. p. 4a). The government presented one witness (subcommittee counsel Tavenner), who testified that the subject of the hearing was Communist activities in Albany. No evidence was presented tending to show that the subject of petitioner's hearing was Communism on the Cornell campus and government witness and counsel negated this subject.

The trial court (Holtzoff, J.) without a jury, found that "the committee was investigating the infiltration of Communism into educational and labor fields" (J. A. 29). On appeal, the government urged that the subject under inquiry was the *inter-relationship* between the fields of labor and education. The Court of Appeals found that petitioner was, or should have been, aware of the subject matter under inquiry and the pertinency of the questions thereto but did not state specifically what the subject matter was (App. A.).

REASONS FOR GRANTING THE WRIT.

I.

Petitioner's Conviction Is Based Upon an Erroneous Interpretation of the Standards Laid Down by This Court With Respect to the Requirement That the Subject Matter Under Inquiry Appear With Indisputable Clarity.

The petitioner contends that the standards by which it is to be determined whether a witness before a Congressional committee has been made aware of the existence of a valid legislative subject have been set forth in the cases of *Watkins v. United States*, 354 U. S. 178 (1957) and *Barenblatt v. United States*, 360 U. S. 109 (1959), and that the decision of the Court of Appeals conflicts with those standards.

A. *It Is Not Required That Any Particular Form of Words Be Used by a Witness in Raising the Question of Pertinency.*

Petitioner at the outset made a broad objection to the "jurisdiction" of the committee to ask the questions seeking to elicit the names of his past associates and an equally broad objection to the "constitutionality" of the proceedings. Subsequently, in lay language, he protested the efforts of the committee to ascertain the names of his associates on the grounds that the whole matter was too picaresque and trivial to prompt a Congressional committee to require him to answer under pain of contempt. Like Watkins, he indicated that his *motivation* in withholding the names of others was based on moral scruples against informing. It is not contended that petitioner ever specifically objected to any particular question on the grounds of pertinency in so many words. It is contended that his general objection at the outset, plus the subsequent colloquy

as to whether the names of others were important, is as much a raising of the whole issue of subject matter and pertinency as in the *Watkins* case.

It must be recalled that, although judicial characterizations of *Watkins'* position in later cases seem to imply that *Watkins* specifically objected on the grounds of pertinency, actually *Watkins'* objection was merely a passing reference to the relevancy of the names of others to the work of the committee in the midst of a statement declaring that he was unwilling to inform on others.

B. Even If It Be Assumed That Petitioner's Posture at His Hearing Did Not Constitute an Objection on the Grounds of Pertinency or Unawareness of Subject Matter, the Necessity for a Witness to Be Informed as to Subject Matter Exists Independently of Objection by Him in This Particular.

It is an essential element of the crime of contempt of Congress that the questions upon which conviction is based be pertinent to the subject under inquiry and that this subject appear to the witness with indisputed clarity at the time of his hearing. This court pointed out in the *Barenblatt* case that its opinion in the *Watkins* case had suggested five sources of information by which this element of the crime might be satisfied. It is contended that by each of these avenues of information the petitioner had less information than was available to *Watkins* or *Barenblatt*.

It is agreed that the authorizing resolution is not helpful in this respect in the case of the House Committee on Un-American Activities because of its vagueness and breadth.

In the petitioner's case, there were no other witnesses and there were no general statements of the purpose of the particular subcommittee. In fact, it does not appear that this particular subcommittee was convened for any other purpose than to hear petitioner himself or that it ever heard any other witness at any time on any subject.

It is true that the subcommittee counsel informed the witness that they had heard testimony regarding the existence of a Communist Party group on the campus at Cornell and had been informed that petitioner was named as a member and stated to petitioner that he would like "to ask you certain matters relating to your activity there." Of course, petitioner testified without reservation as to his own activity. However, it is conceded that petitioner knew that the questions dealt with the Communist group at Cornell; this is obvious. This, however, is still less than was available to Watkins who likewise knew that the general subject was Communists in labor unions in the Chicago area.

The final possible way by which a witness may be apprised of a subject matter is through the response of committee members to witness's refusal or protest. The only response which petitioner got to his protests was a general statement by Congressman Doyle that the committee was empowered to investigate the extent of all Communist activities, and in a subsequent colloquy the assertion by Congressman Jackson that the witness was not entitled to further information as to the scope of the inquiry. Whether petitioner's opening blanket objection on the grounds of "jurisdiction" and "constitutionality" was sufficient to trigger the duty to delineate the subject matter and its connection with legislative purpose, it is contended that the subsequent colloquy (which is set forth verbatim *infra* under the Statement section) constitutes a plea, in layman's language, for information and explanation.

In the *Watkins* case, in accordance with the principle of *Kilbourn v. Thompson*, 103 U. S. 168 (1880), this court, speaking through the Chief Justice, stated that "committees are restricted to the missions delegated to them, i.e. to acquire certain data to be used by the House or the Senate in coping with a problem that falls within its legislative sphere. No witness can be compelled to make disclosures on matters outside that area. This is a jurisdictional concept of pertinency . . ."

Early in the hearing, in a colloquy with the subcommittee chairman petitioner said it was simply a case of "I had certain ideas and people I came in contact with had certain ideas. I didn't believe in force or violence, or anything like that . . . I think the whole thing has been magnified more than it should have been . . . I do not want to be in contempt of the committee . . ."

"Mr. Jackson. You therefore refuse to answer the question that is pending, is that correct?"

"Mr. Deutch: Yes, sir, but I could amplify that point. I do not mean the point of contempt. I think—I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in wasn't even a professor. The magnitude of this is really beyond reason." [J. A. 56, 57]

A fair reading of these protests of petitioner is in effect that in view of the insignificance of the group, the insistence of the committee amounted to the collection of past minutiae, which the *Watkins* opinion characterized as leading to "exposure of private lives in order to gather data that is neither desired by the Congress nor useful to it." Counsel might have put it in the form of a request to be informed of how the information sought related to data needed by the Congress, but it must be remembered that the committee does not permit counsel to speak.

The committee chairman understood this as having raised such a question and it is contended that petitioner was entitled to at least some information. The response, however, was to the effect that he was not entitled to be further enlightened:

"That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we representatives to determine. That determination cannot rest with you." [J. A. 57]

There is no doubt that the witness, and probably also his counsel, was groping, but there is also no doubt that he sought some enlightenment beyond the obvious fact that the committee was asking questions about the activities on the Cornell campus. The extreme youth of the witness and the fact that the hearing was an isolated event unconnected with any course of inquiry (other than that the witness had been named as a Communist) required that some explanation be afforded the witness if he were expected to make the hard choice of going beyond complete candor as to himself by giving the names of others.

II.

The Government Is Committed to the Subject Proved at the Trial and Conviction Cannot Be Sustained if This Subject Was Either Untouched Upon at the Hearing or Unknown to Petitioner and It Is Too Late on Appeal for the Government and the Courts to Construe a Subject Other Than That Proved at Trial.

The opinion of the Court of Appeals does not deal with this contention of petitioner, although it was extensively briefed and argued and constitutes petitioner's main ground for urging reversal.

It is curious that it has been held that the subject appeared to petitioner with indisputable clarity and yet the prosecution has at different times during the course of the case nominated a number of different subjects, and furthermore, that nowhere in the opinion of the Court of Appeals is it stated what, in the opinion of that court, the subject was.

A. At Trial the Government Proved the Subject Was Communist Activities in the Albany Area and/or Communism in the Field of Labor, and Introduced Evidence That the Subject Was Not Communism in Education.

The transcript of petitioner's hearing before the subcommittee plainly shows that, while the subject under in-

quiry in the sense required by the statute was not clear, the questions themselves largely concerned the student Communists on the Cornell campus. *No questions touched upon infiltration into labor or the Albany area.* The committee print of petitioner's appearance bore the title "Communist Methods of Infiltration—Education—Part 8."

At the outset of trial, the government introduced into evidence a series of reprints of testimony before various other subcommittees of the House Committee on Un-American Activities—specifically the opening statements of a subcommittee chairman made at certain earlier hearings held in Chicago and the statements of the chairman of the subcommittee which held earlier hearings in Albany. Over objection on the grounds of relevancy and materiality (there being no connection established between said hearings and petitioner or evidence that he was aware that said hearings had been held) the documents were admitted. A lengthy excerpt from the preamble to the Albany hearings is set forth in the opinion of the Court of Appeals, the gist of which is contained in the following sentence: "This committee is not investigating labor unions, but it is investigating Communism within the field of labor where it has substantial evidence that it exists." The Chicago material was similar [J. A. 42].

The government then introduced a committee print of the testimony of Ross Richardson, the FBI agent who had been the group leader of Deutch's group, wherein he named Deutch as a member and as a contact with the person believed to be a faculty member, but in which he in no way connected Deutch with any other group or activities other than the student group on the Cornell campus. The opinion of the Court of Appeals mentions that Ross Richardson was in the Labor Youth League but he did not connect Deutch with this organization, nor were any questions asked petitioner about the Labor Youth League.

The subcommittee which heard petitioner was stated by its chairman to have been appointed by the chairman of the full committee "for the purpose of taking this testimony

this morning," [J. A. 54]. It was a different subcommittee composed of different members than in the subcommittees which previously held hearings in Albany or Chicago.

The documents having been introduced over objection, the remainder of the government's case consisted solely of the testimony of one witness, committee counsel Tavenner. He testified that the identification by means of the title on the committee print of Deutch's testimony, ("Education—Part 8") was not a designation of the subject but had been placed thereon by the staff "for convenience". On the contrary, he testified that the subject under inquiry was Communism in the Albany area [J. A. 17].

Doubtless the government avoided designating the subject as being the identity of the student members of the Communist group at Cornell out of concern lest this court ultimately determine that under all the surrounding circumstances, a member of such a group would be protected by the First Amendment from compulsory disclosure of the names of his associates, i.e., that the balance between the need for certain data to be used by the Congress in combating the menace of Communism would be so slight in the case of a half dozen young men meeting under the paternal wing of an FBI agent as to be outweighed by the freedom of political association, which is admittedly infringed upon by compulsory disclosure.

Whatever prompted the government to avoid Cornell as the subject and contrive the implausible labor and Albany area subject, they are bound by what they proved.

The difficulty is that no questions asked Deutch touch upon the infiltration of labor, nor did they touch upon Communist activities in the Albany area, and the evidence is that petitioner never had any knowledge of either of these areas. Petitioner has never been in the Albany area and has never been connected with a labor union. There is thus a flat contradiction between the government's proof at trial and the hearing itself.

The trial judge resolved this dilemma by finding that both subjects—education *and* labor were under inquiry (eliminating Albany). On appeal, the government for the first time argued that the subject was the "inter-relationship between-labor and education." This they did by bringing forth the fact (totally unknown, of course, to petitioner at the time of his hearing) that one of the names petitioner had been asked to identify {Homer Owen} was that of a student at Cornell who had *also* worked in a labor union during the summer and had thus been recruited in the Communist Party. Of course, the committee could have asked petitioner if he knew anything about this practice, if it was one, and he obviously would have answered, but they didn't care to.

Finally, the Court of Appeals, although affirming the conviction and stating that the petitioner knew what the subject was, refrained from designating it altogether.

The first difficulty with this is the obvious one that all of this *ex post facto* attempt to create a subject does not help to satisfy the requirement that the subject appear to the witness at the time of his hearing with indisputable clarity. The government counters this with the argument that the witness is not entitled to the benefits of this rule because, in spite of broad objection to all of the questions on the grounds of jurisdiction and constitutionality, the witness did not invoke a magic formula of words as each question was asked.

But even conceding, *arguendo*, the government's contention on this point, it is still necessary that there *be* a subject under inquiry. The statute itself makes this a required element of the crime. Suppose it is held that the witness, in not having specifically used the word "pertinency" in his general objection, waived the right to be informed as to how each individual question related to the subject matter? Nothing can waive the requirement that there must be a subject under inquiry and proof of said subject is required at trial. This follows, obviously, from

the requirement of simple logic that there must be something to which questions can be pertinent.

Having proved one subject at trial, the government cannot for the first time on appeal elect a different subject. Fundamental due process requires that the defendant have an opportunity at trial, before the trier of fact, to refute each and every essential, factual element of the government's case. This defendant had no opportunity at trial to refute the factual assertion now made that the subject was the interrelation between labor and education. Furthermore, the defense was likewise deprived of an opportunity to contest and argue whether the subject now brought forward was a legitimate subject for inquiry.

In fact, in argument to the trier of fact at trial, appellant's counsel specifically stated that he was not going to argue that Communism at Cornell or in education was not a proper subject because the government had agreed at trial that it was not the subject under inquiry.

After an express renunciation by defense counsel of a right to argue a question of fact (because uncontroverted at trial) can the government now urge that fact upon this court?

An appellate court cannot say that had the government elected to offer different proof at trial that that proof would also have been sufficient to sustain a conviction. *Kotteakos, et al., v. United States*, 328 U. S. 750, 66 Sup. Ct. 169 (1946). See also *United States v. Klass, et al.*, 166 F. 2d 373 (C. C. A. 3d, 1948).

III.

Conviction in This Case Is a Holding That Even Where All Else Is Disclosed to an Investigative Committee, Names of Individuals Are, Per Se, Data Which the Congress Needs in Order to Legislate and May Be Compelled Pursuant to a Valid Legislative Purpose.

No case hitherto before this court has sustained a conviction under 2 USC § 192 where the recusancy of the witness was strictly confined to the identity of others. In the

two cases where this was the information refused, *Watkins* and *United States v. Rumely*, 345 U. S. 41 (1953), this court reversed. In *Barenblatt* this court expressly refrained from passing upon the counts in which the questions were, in this respect, similar to those in the instant case. It is not contended that names may never be related to a valid legislative purpose. It is contended that where the investigation concerns a purported political movement and, as such, is justified in compelling disclosure in spite of the First Amendment only because of the violently revolutionary tenets of the movement, the data needed by Congress is supplied when the witness fully discloses every aspect of the movement except identity.

Under such circumstances the names of individuals, per se, cannot constitute data which the Congress needs in order to legislate intelligently concerning the Communist threat. The legislative branch is concerned with formulating general rules; perhaps petitioner's disclosures about the nature and activities of the campus group were helpful in this respect. Identity of individuals who may or may not be engaged in illegal activity is the concern of the executive branch of the government, which branch was on hand in the person of FBI agent Richardson.

Exposure for exposure's sake is beyond a committee's power and may not be ascribed as a purpose. Can a legislative purpose be found requiring the naming of the Cornell student who invited petitioner to join? Is this not minutiae too insignificant to warrant the infringement of the First Amendment necessary to obtain the information?

IV.

Sustaining Conviction of Petitioner in This Case Requires a Greater Constriction of the Protection of the First Amendment as Balanced Against the Need of the Congress for Information Than in Any Preceding Case.

In the *Barenblatt* case, this court held that where First Amendment rights of the defendant were asserted to bar

interrogation (and hence conviction) that "the issue always involves the balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." 360 U. S. at 126. Conceding that compulsory disclosure of political associations does, in fact, infringe on the First Amendment, this court required that the judiciary weigh this against the need of the Congress for certain data of use to it in framing legislation. Petitioner has contended since his original motion to dismiss was filed in December, 1954, that this balancing of conflicting interests must be made and that if there is any case in which the First Amendment rights are to prevail over the investigative power, that it was petitioner's case.

Neither the trial court nor the Court of Appeals, however, judging from their opinions, applied the test and balanced the factors. The Court of Appeals relied solely on the rationale of *Barsky v. United States*, 167 F. 2d 241, cert. denied 334 U. S. 843 (1948) holding that the names of other people were not beyond the power of a committee to elicit. Petitioner does not contend that they necessarily are, although no conviction for contempt of Congress has thus far been upheld by this court where the refusal to answer was solely as to the names of other people.

It is petitioner's contention that affirmance of conviction in this case involves judicial sanction in favor of the investigative power and in derogation of the protection of the First Amendment to a degree which exceeds this court's decision in the *Barenblatt* case.

Superficially there are similarities in that both petitioner and Barenblatt were questioned largely about Communist activities on a college campus. On the other hand, there are distinct differences. If the weight on one-half of the scale—the public interest side—in turn depends upon the need for Congress to know, there is a distinct and great difference. Barenblatt refused to answer the initial questions as to his own present or past membership in the Party and therefore, naturally, foreclosed from the committee in-

formation about the nature, purposes, methods, means of operating, size, etc., of the campus group. Deutch answered fully and freely on all of these subjects. It can be fairly said that he gave the committee a picture of the group as he knew it. This reduces the data withheld to one of mere identity of others. While not contending that such identification per se can never be elicited, it is nonetheless argued that the identity of others is one step more remote from the type of data which the Congress (distinct perhaps from the investigative agencies of the executive branch) needs to know.

It is also relevant in assessing the balance between the First Amendment-protected area and the public interest in forced disclosure that the entire tragic-comic operation on the campus had been conducted under the auspices of, and apparently largely through, the management of an employee of the FBI—the same Ross Richardson who conducted petitioner to the last few meetings he attended (the last “meeting” was with Richardson alone!), collected his dues to the Party and ultimately named him as a member.

Finally, it would appear that the Cornell group was even less important and less conceivably connected to the national security than the group of which Barenblatt was alleged to have been a member. The “core” legitimizing compulsory disclosure in what otherwise would be a First Amendment-protected political association has been held by this court to be the advocacy by the Communist Party of violent overthrow. In the *Barenblatt* case, it was argued by the defendant that the investigation was aimed not at these revolutionary aspects of Communist activity but at the theoretical classroom discussion. But this was not developed at Barenblatt’s hearing. Here it was. This court pointed out that an investigation of advocacy of overthrow embraced the right to identify a witness as a member of the Communist Party. In the *Barenblatt* hearing (since Barenblatt refused at this threshold to answer even as to his own membership), the committee could go no further. But at

petitioner's hearing, that question was freely answered and the committee had an opportunity to explore to as great an extent as they wished all aspects of this student group and its tenets, which, to a large extent, they did; and petitioner, testifying under oath, subject to the pains and penalties of perjury, stated flatly that he never met anyone that advocated the overthrow of the government by force and violence and "if they had I would have not have allowed it" [J. A. 64]. At another point, he said they did not believe in force and violence [J. A. 56-57]. There was a colloquy on this point between petitioner and committee members [J. A. 63-64]. If the testimony of the group's leader, the FBI agent, conflicted with this, petitioner could be indicted for perjury.

If it is the violent revolutionary aspects of the Communist Party which justifies compulsory disclosure which would not be permissible were this feature absent, what is the situation where at the hearing itself, this aspect of a particular Communist group is freely discussed by the witness to the full extent that the committee desires to interrogate him?

The need to know concerning this "core" has been satisfied and the identity of others is peripheral and tangential. This situation is far different from the *Barenblatt* situation in which the witness, by refusing to answer the initial question of his own involvement in the Communist Party, forestalls any exploration of the nature of the particular group in which he is alleged to have participated. In that posture, his argument on appeal to the effect that his group was only interested in theoretical aspects was more easily rejected by this court, since that is a matter that the committee might have wished to explore.

CONCLUSION.

Petitioner contends that he falls within the *Watkins* situation with respect to the inadequacy of his knowledge of the subject matter.

In any event, there must be some subject under inquiry proved and the government is bound by the subject they elected to prove over defense objection at the trial, and if it appears that none of the questions asked petitioner dealt with that subject, conviction must be reversed and due process requires that a different subject may not be contrived on appeal, no matter how justified that subject might have been if proved at trial.

Finally, the petitioner has tried to demonstrate that affirmance of his conviction will, under all of the circumstances, advance the *Barenblatt* doctrine to further restrict the First Amendment-protected area in favor of the investigative power.

In no other case except the *Watkins* case has this court had to confront a situation where the witness answered freely except as to the names of others; in no other case was every aspect of petitioner's area of knowledge of Communist activities as fully and completely developed at the hearing. The granting of a writ of certiorari in this case would place before the court the question as to whether or not the acquisition of names per se as an end in itself can ever constitute data which the Congress needs in order to legislate.

Respectfully submitted,

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APPENDIX A.

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 13,694

BERNHARD DEUTCH,

Appellant

v.

UNITED STATES OF AMERICA,

Appellee

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Decided June 18, 1960

Mr. Henry W. Sawyer, III, of the bar of the Supreme Court of the United States, *pro hac vice*, by special leave of court, with whom *Mr. George Herbert Goodrich* was on the brief, for appellant.

Miss Doris Spangenburg, Assistant United States Attorney, for appellee. *Messrs. Oliver Gasch*, United States Attorney, *Carl W. Belcher*, *Lewis Carroll*, *William Hitz*, and *Harold D. Rhynedance, Jr.*, Assistant United States Attorneys, were on the brief for appellee. *Mr. John D. Lane*, Assistant United States Attorney, also entered an appearance for appellee.

Before WASHINGTON, BASTIAN and BURGER, *Circuit Judges.*

(1a)

BASTIAN, Circuit Judge: This is a contempt of Congress case arising from a hearing held by a subcommittee of the House Committee on Un-American Activities. Appellant Deutch was indicted for contempt for his refusal to answer certain questions.¹ He was tried in the District Court by a judge sitting alone (jury having been waived), convicted and sentenced on four of the five counts of the indictment.² On appeal, appellant urges that the subject matter under inquiry and the pertinency to that subject matter of the questions set forth in the indictment were not proved by the Government beyond a reasonable doubt to have appeared with indisputable clarity at the time of the subcommittee hearing. Appellant also attacks the legislative purpose of the investigation and the power of the committee to engage in exposure. He also objects to the admission of certain documentary evidence at the trial. Lastly, he relies on his rights under the First Amendment.

In July 1953, the committee began hearings in Albany, New York, in connection with a general investigation of communist activities in that area.³ At these hearings,

1. The questions listed in the indictment (the numbering being that of the counts) were these:

1. The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party. Will you tell us who that member of the faculty was?

2. Will you tell the committee, please, the source of that \$100 contribution, if it was made?

3. Where were these meetings held?

4. Were you acquainted with Homer Owen?

5. The witness is directed to give the name of the person by whom he was approached.

2. The circumstances under which the appeals in this case and seven other contempt of Congress cases came on for hearing in this court appear in footnote 2 of the opinion in No. 13,464, *Gojack v. United States*, decided this day.

3. The committee had also, on February 25, 1953, begun a series of hearings on communist infiltration into education, and on that day

there was testimony to the effect that during the period 1947-1953 a communist cell was active on the campus of Cornell University and that students enrolled at the university were accepting positions with communist-controlled labor unions. The committee also received information that appellant had participated in this communist activity and that he might know the name of a professor (theretofore unknown) of the university who had obtained funds for the communist cell. The committee determined to call appellant to inquire into these activities relating to both communism in education and communist infiltration into labor unions.

Thereafter, the committee interrupted the Albany hearings and announced that further hearings were postponed until a later date. The hearings were resumed in Albany in April 1954. At the commencement of the reopened hearing (April 7, 1954), the Chairman of the subcommittee made the following statements:

"This committee is charged by the Congress of the United States with the responsibility of investigating the extent, character, and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries, or of a domestic origin, and attacks the principles of the form of government as guaranteed by our Constitution and all other questions in relation thereto that will aid Congress in any necessary remedial legislation.

"The Committee on Un-American Activities will resume this morning the investigation of Communist Party activities within the capital area. This is a

the Chairman of the committee made a full and complete statement of the purposes of the investigation. The material portions of the opening statement of the Chairman appear in note 31 of the Supreme Court's opinion in *Barenblatt v. United States*, 360 U. S. 109, 130-131.

continuation of the open hearings which were conducted in Albany between July 13 and 16, 1953. The investigation has been extended into adjacent areas, from which witnesses are also expected to be heard.

"A public announcement was made in January that hearings would be resumed here at a much earlier date, but due to my desire not to interfere with sessions of the Federal court, and for reasons beyond the committee's control, it became necessary to postpone them until this time.

* * *

"Other testimony taken at the 1953 Albany hearings related to the efforts of the Communist Party to infiltrate industry and other segments of society in the capital area. Testimony now to be heard is expected to supplement that formerly given on this subject and as indicated will extend into adjacent areas.

"I want to emphasize what I have stated hitherto, namely that the committee is not concerned with the political beliefs or opinions of any witness. It is concerned only with facts showing the extent, character, and objects of Communist Party activities within the areas from which the witnesses are subpoenaed.

"I desire also to make it clear that this committee is not interested in any dispute between management and labor or with internal disputes within the field of labor. However, the committee considers that it has a legislative mandate to investigate the extent, character, and objects of Communist Party activities wherever evidence of its existence is found, and this it proposes to do.

"This committee is not investigating labor unions, but it is investigating communism within the field of labor where it has substantial evidence that it exists. Such an investigation is particularly pertinent at this

time when the Committee on Un-American Activities is engaged in the study of H. R. 7487 which has been referred by the Speaker of the House to this committee.

"In keeping with the long-standing policy of this committee, any individuals or organizations, whose names are mentioned during the course of the hearing in such a manner as to adversely affect them, shall have an opportunity to appear before the committee for the purpose of making a denial or offering an explanation of such adverse information."

One of the witnesses called on April 7, 1954, testified as to communist activities at Cornell University from 1947 to 1951. On April 8, 1954, another witness⁴ testified that he [the witness] became a member of the communist group at Cornell and was assigned to the Labor Youth League, "which is a sort of training for future communist members." This witness gave testimony about communist activities at the university and stated that Deutch had acted as a contact man, in 1952 and 1953, between the Communist Party and a member of the faculty whose name was unknown to the witness. He also testified that appellant had received a contribution for the Communist Party from an unknown source. For this reason, appellant was subpoenaed to appear before the committee in Albany on April 9, 1954.

As his counsel protested the shortness of time, appellant was granted a continuance to April 12, when, accompanied by his counsel, he appeared before the committee in executive session in Washington, D. C. He was at that time 25 years of age, a graduate student attending the University of Pennsylvania, having previously studied at Cornell. He was represented at the hearing by the same counsel who represented him in the District Court and in this court, and who had secured the continuance for him.

4. This witness joined the Communist Party with the full knowledge of and at the request of the Federal Bureau of Investigation.

Appellant asked for and was granted frequent opportunities to confer with his counsel. • Never once did he indicate unawareness of the purpose of the hearing, or doubt as to the pertinency of the questions. At the outset of the hearing, he was informed and questioned by the committee counsel, Mr. Tavener, as follows:

“Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

“In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

“Were you a member of a group of the Communist Party at Cornell?”

After conferring with his counsel, Mr. Sawyer, Deutch responded under protest that he had been a member of the Communist Party. His objection and answer to the question were as follows:

“I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is the committee's enabling legislation. This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party.”

Committee counsel continued:

“The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and

that you knew the name of the member of that faculty, who was a member of the Communist Party.

"Will you tell us who that member of the faculty was?"

After again conferring with his counsel, appellant stated:

"Sir, I am perfectly willing to tell about my own activities, but do you feel I should trade my moral scruples by informing on someone else?"

He was advised that moral scruples on his part "do not constitute a legal reason for declining to answer the question," and he was directed to answer. He declined, stating that he would not answer questions about other people, but only about himself.

Representative Doyle, a member of the subcommittee, then made the following statement:

"The young man read a statement in which he referred to Public Law 601. He no doubt read point 1 in that law in which it states our duty in Congress is to inquire into the extent—that is the language—'the extent.' Now manifestly our counsel, in asking you the name, etc., goes into the extent of the existence of the Communist cell, don't you see? All Communist activities. I wanted to emphasize that to you because you were referring to Public Law 601 and relying on that in your statement which you read. So I can come right back to you and ask, or call to your attention the fact that under our Congress we have the duty or we are charged with looking into the extent, you see, which the Communist Party has acted. Therefore, you see, I am calling your attention to the fact that this question goes into the extent. I just wanted to call that to your attention, just in case you didn't realize the kind of question that was."

Committee counsel then proceeded to ask the question forming Count 2 of the indictment:

"The committee received testimony from Ross Richardson to the effect that you collected certain donations for the benefit of the Communist Party, and that on one occasion you delivered to him the sum of \$100, without designating to him the source of it. Will you tell the committee, please, the source of that \$100 contribution, if it was made?"

Appellant declined to answer, and thereafter, although directed to do so, specifically refused to answer the question.

Count 3 of the indictment is not before us as that count was dismissed by the District Court.

Committee counsel then asked the question forming Count 4:

"Were you acquainted with Homer Owen?"

Deutch refused to answer, stating that he did not think he "should discuss any people from now on because some people I am acquainted with and some I am not, so I don't think I want to discuss the people's names." He was directed to answer, but again he declined.

Deutch then related why he became interested in the Communist Party but refused to answer questions forming the basis of Count 5 of the indictment as to the identity of the person who had approached him on behalf of the Party. He was directed to answer, but declined, without giving reasons.

Appellant answered all further questions, none of which required him to give the names of other persons.

The District Court found that "the Committee was investigating the infiltration of communism into educational and labor fields," and decided that the questions in Counts 1, 2 and 5 were pertinent, on their face, to that subject.

With respect to Count 4, the court pointed out that Homer Owen had been a student at Cornell University

in an industrial relations course and that students in that course did temporary summer work in various labor unions, some of which were communist-controlled; that the committee desired to know what, if any, connection there was between students enrolled in that course and the communist-controlled unions; that the question of whether appellant was acquainted with Homer Owen was obviously a preliminary question that might have led to a line of inquiry within the scope of the inquiry, and, consequently, was a pertinent question.

Appellant was thereupon found guilty and sentenced.⁵

We believe the Government has proved beyond a reasonable doubt that the subject under inquiry and the pertinency of the questions were made to appear at the committee hearing with "indisputable clarity." See *Barenblatt v. United States*, 360 U. S. 109 (1959); *Watkins v. United States*, 354 U. S. 178 (1957); cf. *Flaxer v. United States*, 358 U. S. 147 (1958). The Supreme Court has indicated that the subject of a legislative investigation is "indisputably clear" when, considering all circumstances which may legitimately control the course of a congressional inquiry and which may be relevant to the awareness of the witness, the nature and purpose of the inquiry have been given such definiteness as to warn a reasonable man on the witness stand of the likelihood of criminal conviction, and to enable a trial court, jury and appellate court to perform their respective functions. See *Barenblatt v. United States*, *supra*; *Watkins v. United States*, *supra*. The pertinency of the questions asked appellant must be decided in the light of similar considerations.

Throughout his testimony, Deutch testified as to his own activities but, in reference to each of the counts under which he was convicted, he declined to answer the questions, not on the ground of pertinency or on any other ground

5. The opinion of Judge Holtzoff finding the appellant guilty is reported in 247 F. Supp. 89.

except that it was against his "moral scruples" to answer questions about other people. Nor did he claim that he did not understand how the questions related to the subject under inquiry, or what that subject was. On the contrary, it is quite obvious that he recognized that the questions were pertinent to the subject under inquiry, and he based his refusal to answer solely and simply on the fact that he did not wish to give the names of other persons. That appellant was made fully aware of and was in fact aware of the purpose of the hearing and the pertinency of the questions seems to us to be free from doubt. The trend of the questions and his attitude toward them are significant; and the above quoted statements made to him by the committee counsel and a committee member clearly indicated the object of the inquiry and the pertinency of the questions. Not until the trial in the District Court, in what appears to be afterthought, did appellant raise the questions of pertinency and unawareness of the subject matter of the inquiry.

Appellant relies upon the objections above quoted, made at the commencement of the hearing at which he testified, and urges that his objection to the committee's jurisdiction and the constitutionality of the proceedings required explanation by the committee of the subject matter and the pertinency of any questions which might be asked. We cannot agree. It would require real stretching of the imagination to read into the statement made by Deutch an objection to pertinency—or anything that would in the slightest degree indicate that he was unaware of the subject under inquiry.

So far as appellant's claim that the questions involved here violate his First Amendment rights, we think this claim is foreclosed by *Barsky v. United States*, 83 U. S. App. D. C. 127, 167 F. 2d 241, cert. denied, 334 U. S. 843, (1948), wherein we held that the "nature and scope of the program and activities [of the Communist Party] depend in large measure upon the character and number of

its adherents," and that personnel is part of the subject. We do not read *Barenblatt* as to the contrary. As a matter of fact, *Barenblatt* recognized that First Amendment rights are not absolute and that resolution of the issue between those rights and the public interest involves a balance by the courts of the competing interests, and held that Congress should not be denied the power to legislate solely because the field of education is involved. In the present case, prior witnesses had made certain statements but their testimony was inconclusive on the question of personnel. Indeed, we know of no reason why the committee was not entitled to have cumulative evidence of activities in connection with the continuing communist conspiracy.

We have examined the other contentions of appellant and find them equally without merit.

Affirmed

In the Supreme Court of the United States

OCTOBER TERM, 1960

BERNHARD DEUTCH, PETITIONER

v.

UNITED STATES OF AMERICA

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

BRIEF FOR THE UNITED STATES IN OPPOSITION

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In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 233

BERNHARD DEUTCH, PETITIONER

v.

UNITED STATES OF AMERICA

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the district court (J.A. 27-31)¹ is reported at 147 F. Supp. 89. The opinion of the court of appeals (Pet. App. 1a-11a) is not yet reported.

JURISDICTION

The judgment of the court of appeals was entered on June 18, 1960. The petition for a writ of cer-

¹ "J.A." refers to the Joint Appendix in the court of appeals. "Tr." refers to the transcript of the district court proceedings.

tiorari was . . . on July 13, 1960. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether petitioner raised the question of pertinency at the time he was questioned by the subcommittee.

2. Whether, if pertinency was properly raised, the evidence was sufficient to show that petitioner knew the subject under inquiry by the subcommittee and the pertinency to that inquiry of the questions he refused to answer.

3. Whether the subcommittee's inquiry had a proper legislative purpose.

4. Whether petitioner's rights under the First Amendment were violated.

STATUTE AND RULE INVOLVED

2 U.S.C. 192 (R.S. 102, as amended) and the pertinent portions of Rule XI of the Rules of the House of Representatives are set forth in the petition at pp. 3-4.

STATEMENT

Petitioner was charged in a five-count indictment with having refused to answer five questions asked of him by a subcommittee of the Committee on Un-American Activities of the House of Representatives. Petitioner, having waived trial by jury, was found guilty on four counts (One, Two, Four, and Five) (J.A. 27-31), and was sentenced to serve ninety days and to pay a fine of one hundred dollars (J.A. 33).

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The court of appeals, after holding the case in abeyance pending this Court's decision in *Barenblatt v. United States*, 360 U.S. 100, affirmed the conviction.

Briefly summarized, the evidence at the trial was as follows:

In February 1953, the House Committee on Un-American Activities began a series of hearings on Communist infiltration into the field of education.² From July 13 to 16, 1953, a subcommittee of the full Committee conducted a "general investigation of Communist Party activities" (J.A. 17) in the Albany, New York, area. *Hearings Before the House Committee on Un-American Activities; Investigation of Communist Activities in the Albany, N.Y. Area*, 83d Cong., 1st Sess., Parts 1, 2³ (Govt. Ex. 1; J.A. 37). The subcommittee then postponed further hearings in Albany (J.A. 13-14), until resuming them on April 7-9, 1954 (*Hearings*, Parts 3-6). During the course of the Albany hearings, the subcommittee heard testimony from witnesses showing that, during the period from 1947 to 1953, a Communist cell was active on the Cornell University campus, located in Ithaca, N. Y., a relatively short distance from Albany, and that students enrolled in the Cornell School of Industrial and Labor Relations were accepting positions

² See "Opening Statement of the Chairman," February 25, 1953," reproduced in full as the Appendix to the court of appeals' opinion in *Barenblatt v. United States*, 240 F. 2d 875, 884-885 (C.A. D.C.), reversed, 354 U.S. 930, and quoted in the opinion of this Court, 360 U.S. at 131, note 31.

³ Hereafter referred to as "*Hearings*."

with Communist-controlled labor unions.⁴ As a result, the subcommittee in April 1954 was desirous of "ascertaining to what extent any of those students leaving on those summer courses were influenced to select Communist-controlled unions for the purposes of their summer work" (J.A. 21).

On April 8, 1954, E. Ross Richardson⁵ appeared before the subcommittee at Albany and testified in part as follows (J.A. 51-52):

MR. TAVENNER. Were you aware of the existence of a Communist Party group within the faculty at Cornell?

MR. RICHARDSON. Not as a group. I was only aware of one faculty member who was a Communist Party member, and I did not know who he was.

MR. TAVENNER. You were never successful in learning his name?

MR. RICHARDSON. That's correct.

MR. TAVENNER. How is it that you can testify that there was a person on the faculty who was a member of the Communist Party if you have never learned of his name?

⁴ See, e.g., the testimony of John E. Marqusee (*Hearings*, Part 3, pp. 4333-4353; Govt. Ex. 3) and the testimony of the Committee's counsel at trial relating to information received by the Committee in executive session from Homer Owen (J.A. 21-24).

⁵ Richardson, who attended Cornell Law School from 1950 to 1953, was first approached by the Communist Party on the campus. After reporting that fact to the F.B.I., Richardson accepted an invitation to join the Party, and was assigned to the Labor Youth League. He thereafter continued to report to the F.B.I. (*Hearings*, Part 4, pp. 4356-4357).

MR. RICHARDSON. I had one man who was to contact this person, and any information coming from the city committee or from the Communist Party was carried to him through this one person, and anything he had to send back to the Communist Party came back through this one person.

MR. SCHERER. What was that one person's name?

MR. RICHARDSON. Bernie Deutch.

MR. SCHERER. Spell it.

MR. RICHARDSON. D-e-u-t-c-h.

MR. TAVENNER. He was a member of the graduate school group of the party?

MR. RICHARDSON. That's correct.

MR. SCHERER. Again for the record, What year was it that Bernie Deutch acted as a contact man with the professor?

MR. RICHARDSON. I know from the early part of 1952 until the Communist Party re-registration, around March of 1953.

MR. TAVENNER. Were any contributions made to the general work of the party by the unknown individual on the faculty?

MR. RICHARDSON. At one time one hundred and some dollars was turned over to me from a mysterious source, and I suspected it came from that member.

MR. SCHERER. You don't know?

MR. RICHARDSON. I don't know.

MR. SCHERER. You say "a mysterious source." Was it this Bernie Deutch?

MR. RICHARDSON. It came through Bernie Deutch.

MR. SCHERER. Did Bernie Deutch tell you where it was from?

MR. RICHARDSON. No. He said it came from someone else other than himself.

The petitioner was subpoenaed to appear before the subcommittee in Albany on April 9, 1954, but was granted a continuance at his request. Accompanied by counsel, he appeared in Washington on April 12, 1954 (J.A. 10, 15-16). At the outset of petitioner's testimony, counsel for the Committee made the following introductory statement (J.A. 56):

Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

Petitioner, in response to questioning, told the subcommittee that he attended Cornell University as an undergraduate and graduate student from 1947 to 1953 (J.A. 55-56); that, during this period, he was a member of the Communist Party (J.A. 56, 61, 65); and that, while in the Party, he worked with Emmanuel Ross Richardson (J.A. 61-63). Petitioner, who indicated familiarity with Richardson's testimony (J.A. 57-58), was told by the subcommittee what Richardson had testified to concerning him (J.A. 56, 58-59).

Petitioner refused to answer a question seeking the name of the faculty member for whom he had acted as liaison with the Party leadership (Count One) solely on the ground that it was against his "moral scruples" to answer questions about other people (J.A. 56). This reason was rejected by the subcommittee as not constituting legal justification, and he was ordered to answer the question (J.A. 56-57). When petitioner again refused to answer, he was informed that under the terms of the statute authorizing its establishment the Committee was charged with investigating the extent of the Communist Party activities including "the existence of the Communist cell" at Cornell (J.A. 58). Petitioner was then asked for the name of the anonymous donor to the Party who had given him the \$100 (Count Two), and he responded that he refused to answer the question even though he admitted knowing the donor's name (J.A. 59-60). No reason for the refusal to answer was given. When asked whether he was acquainted with Homer Owen⁶ (Count Four), petitioner stated only that "I don't think I should discuss any people from now on * * *" (J.A. 63). In response to a question as to the name of the student who had solicited his membership in the Party

⁶ Homer Owen, a student of industrial relations at Cornell from 1947 or 1948 until 1952, had informed the subcommittee concerning the influencing of students to work with selected Communist-controlled unions for their summer work (J.A. 21-22).

(Count Five), he answered "I don't wish to give his name" (J.A. 65).⁷

ARGUMENT

On May 7, 1958, the Court of Appeals for the District of Columbia Circuit ordered that hearings in this and seven other pending contempt of Congress cases—all of which involved refusals to answer questions asked by congressional committees—"be deferred until after the decision of the Supreme Court in *Barenblatt v. United States* * * *." Following the *Barenblatt* decision (360 U.S. 109) on June 8, 1959, the eight cases were assigned to a single panel of the court below, supplemental briefs were ordered filed in each, and oral arguments were heard. On June 18, 1960, the court of appeals reversed the convictions in two⁸ of the eight cases, and unanimously affirmed the convictions in the other six,⁹ including that of petitioner.

The court of appeals considered petitioner's contentions, and those of the other seven defendants

⁷ It was stipulated at the trial that the Committee reported the petitioner's contumacy to the House of Representatives, and the House certified the Committee's report to the United States Attorney for prosecution (Tr. 26-27).

⁸ *Knowles v. United States* (No. 13,734); and *Watson v. United States*, (No. 13,656). The government is not seeking review in these two cases.

⁹ *Deutch v. United States* (No. 13,694); *Russell v. United States* (No. 13,529); *Price v. United States* (No. 13,925); *Liveright v. United States* (No. 13,871); *Shelton v. United States* (No. 13,737); *Gojack v. United States* (No. 13,464). Petitions for certiorari have already been filed in *Russell* (No. 239, this Term) and in *Shelton* (No. 246, this Term). Extensions of time have been obtained in the other cases.

below, in the light of this Court's rulings and opinions in *Watkins v. United States*, 354 U.S. 178, and in *Barenblatt, supra*. It is submitted that the decision in *Barenblatt* is dispositive of the issues raised by petitioner, and there is no occasion for further review by this Court.

1. Although conceding that he never "specifically objected to any particular question on the grounds of pertinency in so many words" (Pet. 8), petitioner asserts that his broad, general objection made at the outset of his testimony, coupled with the colloquy during his testimony, really amounted to a "pertinency" objection (Pet. 8-12). In fact, petitioner's contention as to pertinency and unawareness of the subject under inquiry is clearly an afterthought. At the beginning of his testimony, petitioner challenged generally the "jurisdiction" of the Committee under its enabling legislation and the constitutionality of questions concerning his associations (J.A. 56). Thereafter, he answered all the questions asked by the subcommittee except for four questions which he refused to answer solely because it was against his "moral scruples" to answer questions about other persons.¹⁰ Never did he suggest that he did not understand the subject matter under inquiry or how the questions related to this subject. As the court of appeals held: "[Petitioner] based his refusal to answer solely and simply

¹⁰ This is the most favorable characterization which can be made of petitioner's reason for refusing to answer. As to two of the questions he in fact gave no reason for refusing to answer (see the Statement, *supra*, pp. 7-8), unless it is assumed that his reference to "moral scruples" was intended to apply to all subsequent refusals.

on the fact that he did not wish to give the names of other persons. * * * It would require real stretching of the imagination to read into the statement made by Deutch an objection to pertinency * * * (Pet. 9a-10a).

In *Barenblatt v. United States*, *supra*, 360 U.S. at 124, this Court held that the issue of pertinency is not raised by the statements of a witness which "constituted but a contemplated objection to questions still unasked, and buried as they were in the context of [the witness'] general challenge to the power of the Subcommittee * * *." *A fortiori*, where, as here, the issue of pertinency was not stated or suggested by the witness at any point in his testimony before the subcommittee, it is even clearer that the witness has failed "to trigger what would have been the Subcommittee's reciprocal obligation" to explain the pertinency of the questions, and the witness is foreclosed from raising the issue for the first time in the contempt proceeding. *Ibid.*

2. In any event, the district court and the court of appeals found that petitioner was fully aware of the subject of the inquiry and the pertinency of the questions under the standards laid down by this Court in *Watkins* and *Barenblatt*. This two-court finding of fact is fully supported by the record which shows that the nature of the inquiry and the pertinency of the questions to that inquiry were made to appear with "undisputable clarity." *Watkins v. United States*, *supra*, 354 U.S. at 214.

Immediately prior to petitioner's testimony before the subcommittee, counsel for the Committee specific-

ally informed him that the subject under inquiry was the existence of Communist groups at Cornell University (see the Statement, *supra*, p. 6).¹¹ Counsel explained that the Committee wished to question petitioner because it had information that he had participated in at least one of these groups (J.A. 56-58). Petitioner was then asked a series of questions which directly and obviously related to the activity of Communist groups at Cornell: *e.g.*, whether he was a member of the Communist Party while a student at Cornell; whether he was a member of the Party's central committee at Cornell; how many persons attended Party meetings there (J.A. 61-62). Among the questions which directly and obviously related to the subject under inquiry were

¹¹ Petitioner complains (Pet. 12-16) of a variance between the "subject under inquiry" as proved at the trial and as urged by the government on appeal, in that at the trial the government proved the "subject" was Communist activities in the Albany area and/or Communism in the field of labor, not Communism in the field of education. This "variance" argument, even if consequential, is completely unsupported by the record. In his opening statement at the trial, the prosecutor pointed out that the subcommittee was interested, not only in Communist infiltration generally, but also "in the field of labor and in the field of education" (Tr. 9). The government introduced the portion of the transcript of the subcommittee hearings containing the statement of committee counsel that the subject under investigation was Communist activity at Cornell (J.A. 56). The trial judge, as finder of fact, found that the "Committee was investigating the infiltration of Communism into educational and labor fields" (J.A. 29; see J.A. 30). And the government's reply memorandum in the court of appeals asserted (p. 5): "The precise topic of the investigation here * * * was Communist activities at Cornell University * * *."

at least three questions which petitioner refused to answer and for which he was convicted for contempt;¹² the name of the faculty member for whom he had acted as liaison with the party leadership; the name of the anonymous donor to the Party; and the student who successfully solicited his Party membership (see the Statement, *supra*, pp. 7-8). The pertinency of these questions to the subject of Communist activity at Cornell was clear beyond doubt, especially to an educated man with both a bachelor's and a master's degree (J.A. 55). Cf. *Barenblatt v. United States*, *supra*, 360 U.S. at 124-125.

3. Petitioner also contends (Pet. 16-17) that the names of the individuals whom he refused to identify were not necessary to the Committee's work and would not serve a legislative purpose. But, as was decided in *Barenblatt*, "Congress has wide power to legislate in the field of Communist activity in this Country, and to conduct appropriate investigations in aid thereof" (360 U.S. at 127), and such power includes the right to identify a witness as a past or present member of the Communist Party (*id.* at 130). Similarly, the Committee, in investigating Communist activity, also had the power to require the witness to identify other Party members with whom he had actively worked in Party programs. "The nature

¹² The pertinency of the question concerning Homer Owen (Count Four of the indictment) is perhaps less obvious. But if petitioner understood the pertinency of any one of the four questions on which he was convicted, this would be sufficient to sustain his conviction and sentence. *Barenblatt v. United States*, *supra*, 360 U.S. at 126, note 25.

and scope of the program and activities [of the Communist Party] depend in large measure upon the character and number of their adherents. Personnel is part of the subject." ¹³ *Barsky v. United States*, 167 F. 2d 241, 246 (C.A. D.C.), certiorari denied, 334 U.S. 843. Petitioner possessed information which might be helpful to the Committee in the performance of its responsibility to investigate Communism, and the questions he refused to answer were plainly relevant to such an investigation.

4. Petitioner last argues (Pet. 18) that the decision of the court below "involves judicial sanction in favor of the investigative power and in derogation of the protection of the First Amendment to a degree which exceeds this court's decision in the *Barenblatt* case." Petitioner, however, failed to rely on the First Amendment in refusing to answer the questions. Near the beginning of his testimony, he stated: "This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality" (J.A. 56). This general constitutional objection in no way specified or even suggested that petitioner was claiming any rights under the First Amendment. Moreover, petitioner did not make even this general objection as to the questions which he refused to answer.

¹³ Petitioner suggests (Pet. 17) that the Committee may be entitled to the activities of individuals but not their names. The names, however, are highly important in order to measure the scope and extent of Party activity and to call additional witnesses on the subject.

Rather, he merely stated that he had "moral scruples" about informing on others.

In any event, petitioner's First Amendment contention is clearly without merit. The record here is strikingly similar to that in *Barenblatt* in that the Committee had considerable evidence of Communist activity at a major educational institution. The threat of Communist activities and propaganda on the campus and in the schoolroom is a matter of grave and proper public concern. See *Adler v. Board of Education*, 342 U.S. 485, 493. And when, as here, Communist activity in the field of education is found to be interrelated with Communist activity in the labor field, the awareness by the Congress of the full extent of such activities becomes all the more important. Thus, as this Court found in *Barenblatt*, 360 U.S. at 134, "the balance between the individual and the governmental interests here at stake must be struck in favor of the latter, and * * * therefore the provisions of the First Amendment have not been offended."

Indeed, the decision in *Barenblatt* goes beyond what is needed to reject petitioner's First Amendment contention. Petitioner saw fit to testify as to his own activities and seeks to invoke the First Amendment only in favor of testimony as to third parties. Under this Court's ruling in *Barenblatt*, it is clear that he could not in these circumstances properly invoke the First Amendment as to his own past and present membership in the Party. *A fortiori*, he cannot invoke the privilege either for the benefit of others or

to support his claim against compulsory disclosure of the names of others."

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

J. LEE RANKIN,
Solicitor General.

J. WALTER YEAGLEY,
Assistant Attorney General.

KEVIN T. MARONEY,
Attorney.

AUGUST 1960.

"We submit that it is not necessary for the Court to withhold action on this petition until decision of the three other contempt of Congress cases now pending: *McPhaul v. United States*, No. 33, this Term, certiorari granted, 362 U.S. 917; *Wilkinson v. United States*, No. 37, this Term, certiorari granted, 362 U.S. 926; and *Braden v. United States*, No. 54, this Term, certiorari granted, 362 U.S. 960. While this case, like the other three cases, raises the pertinency of the questions to the subject under inquiry, the determination of this issue necessarily depends on the particular factual circumstances involved. Similarly, while contentions concerning violation of the First Amendment and the committee's lack of legislative purpose were raised in *Wilkinson* and *Braden*, these questions also depend on the particular circumstances. Thus, in both the latter cases the petitioners argued that the committee was investigating propaganda activities against itself — allegations which, if true, raise more serious problems as to First Amendment rights and the committee's lack of a legislative purpose than petitioner can claim here. And petitioner himself does not suggest that the same issues are involved here as in the other three cases.

JAN 10 1961

JAMES R. DOWNING, Clerk

IN THE
Supreme Court of the United States

October Term, 1960.

No. 233.

BERNHARD DEUTCH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Writ of Certiorari to the United States Court of Appeals
for the District of Columbia Circuit.**

BRIEF FOR PETITIONER.

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IN THE
Supreme Court of the United States

—
OCTOBER TERM, 1960.

—
No. 233.

—
BERNHARD DEUTCH,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

—
ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

—
BRIEF FOR PETITIONER.

—
OPINIONS BELOW.

The judgment and sentence of the District Court are not reported; they appear on pages 27, 28 and 30 of the record. The opinion of the Court of Appeals is reported in 280 F. 2d 691 (1960) and on pages 330-339 of the record.

JURISDICTION.

The judgment of conviction was affirmed by the Court of Appeals for the District of Columbia Circuit on June 18, 1960. The Petition for a Writ of Certiorari was filed on July 13, 1960 and the writ was granted on October 10, 1960. The jurisdiction of this Court is under 28 U. S. C. § 1254(1).

QUESTIONS PRESENTED.

Petitioner appeared in response to a subpoena, and under protest as to the "constitutionality" of the proceeding and the "jurisdiction" of the committee, testified fully before a subcommittee of the Committee on Un-American Activities of the House of Representatives concerning his past activity as a member of a student Communist group on the campus at Cornell. He refused to answer certain questions identifying by name his associates. He was subsequently indicted for contempt and convicted of violating 2 U. S. C. § 192. The questions presented are:

1. In determining whether a witness was aware of the subject under inquiry, can he be charged with legal knowledge of statements of subcommittee chairman and of testimony of other witnesses, of which he has no actual knowledge?
2. Is the requirement that the subject matter under inquiry appear to the witness with undisputed clarity waived because the witness, in voicing objection to the committee's jurisdiction to ask the questions, does not specifically object to pertinency?
3. Must the subject of the inquiry proved by the government at trial under 2 U. S. C. § 192 be the same as the subject matter covered at the hearing?
4. If the witness were aware of the subject of the hearing, which subject, if proved at trial, would sustain a conviction under 2 U. S. C. § 192, may the conviction be sustained if the government at trial proved another subject of which the witness was unaware?
5. May a conviction under 2 U. S. C. § 192 be sustained on appeal by finding a subject under inquiry at variance with the subject proved by the government at trial?

6. Where a witness has disclosed every aspect of the activities, character, aims and extent of a student Communist group, withholding only names, is there a valid legislative purpose in the acquisition of such names?

7. In determining whether the First Amendment protected petitioner from compulsory disclosure of past political association, should the doctrine of *Barenblatt v. United States*, 360 U. S. 109 (1959), be extended in favor of the investigative power and in derogation of the protection of the First Amendment?

STATUTES INVOLVED.

2 U. S. C. § 192, R. S. 102 (52 Stat. 942), as amended, provides:

“Refusal of witness to testify.

“Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months.”

Public Law 601, Section 121, 79th Congress, 2d Session (60 Stat. 812, 823, 828) provides in relevant part:

“(b) Rule XI of the Rules of the House of Representatives is amended to read as follows:

*Brief for Petitioner***"Rule XI*****"Powers & Duties of Committees***

"(1) All proposed legislation, messages, petitions, memorials, and other matters relating to the subjects listed under the standing committees named below shall be referred to such committees, respectively: . . .

* * *

"(q)(1) Committee on Un-American Activities.

"(A) Un-American activities.

"(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation."

STATEMENT.

Petitioner, Bernhard Deutch, is a nuclear physicist employed by The Bartol Foundation, a non-profit corporation affiliated with the Franklin Institute of Philadelphia. In the early 1950's, he was an undergraduate at Cornell University and did a year of graduate work at that University and there received his Master's degree. He then undertook studies at the University of Pennsylvania where he obtained his Doctorate of Physics and while there, at the age of 24, in the course of work as a laboratory assistant at the Medical School of the University of Pennsylvania (work which he undertook in order to help finance his studies), he was the co-discoverer of the cause of throm-

basis and the co-author of the paper announcing this discovery, which was read before the American Physiological Society at its annual meeting in November of 1954.

On April 7, 1954 in the Physics Building of the University of Pennsylvania, Deutch was served with a subpoena commanding him to appear before a subcommittee of the House Committee on Un-American Activities in Albany, New York, on Friday, April 9, 1954, at 10:30 A. M. Upon request of his counsel the hearing was actually held on April 12, 1954 in Washington, D. C.

At this point Deutch knew only the following:

1. That a certain Ross Richardson had named him as a member of the Communist Party while he had been at Cornell, which fact he knew only from newspaper accounts; and

2. That he had been subpoenaed as stated above.

Upon appearance at the committee's office in the House Office Building in Washington, he and his counsel were directly shown into an office in which there were seated several unidentified men; he was forthwith sworn and without preamble the questioning commenced. At trial the government established that some of the individuals present in the room consisted of a subcommittee of the Committee on Un-American Activities but there is no evidence in the record that that particular subcommittee ever heard any other witnesses on any subject. It is affirmatively shown by the record that all of the other subcommittees which held hearings on various subjects pursuant to a course of inquiry of which petitioner's hearing was alleged to have been a part, were different subcommittees with different subcommittee chairmen and different members.

After introductory questions of the petitioner's name and address, committee counsel stated:

"Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among

undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

"Were you a member of the Communist Party at Cornell?" [R. 293]

The petitioner objected to "the jurisdiction of this committee" and answered "under protest as to its constitutionality". *The petitioner thereupon freely answered all questions concerning himself and testified fully as to the activities of the student group but refused to identify individuals by name.* He told the committee that he was no longer a member of the Communist Party, but that he had been a member of the student Communist group at Cornell and that "when I was in the Communist Party all that happened were bull sessions on Marxism and some activities like giving out a leaflet or two. The people I met did not advocate the overthrow of the government by force and violence and if they had I would never have allowed it" [R. 302].

Deutch told the committee that at the age of 13 or 14 he had read many books on Marxism which had impressed him and that he finally joined the Communist Party at Cornell at the age of 19. He went on to say that the time of his quitting the party would be approximately the time of the last meeting he attended, to which meeting he had been conducted by Ross Richardson, an employee of the FBI, although he also thought that perhaps the "last meeting" he attended was with Mr. Ross Richardson alone.

At one point the committee counsel stated to Deutch that Ross Richardson had stated that petitioner knew the identity of a certain member of the faculty at Cornell who had presumably been a member of the Communist Party and the committee asked petitioner to state the name of

that person. Petitioner, after pointing out that Richardson himself had informed him that the individual in question had quit the Communist Party, respectfully told the committee that he was willing to tell all about his own activities but that he could not, because of moral scruples, bring himself to inform on other people. The assertion by petitioner that Ross Richardson had informed the committee that the individual in question had left the Communist Party was erroneous. Petitioner knew that he had so informed Ross Richardson on the campus at Cornell at a time when petitioner did not know Richardson was an FBI agent, and assumed that when he heard that Richardson had testified and had revealed his role as an FBI agent that he had told all to the committee. Since petitioner was, of course, not present when Richardson testified and since his testimony was not available (even to counsel) until published by the committee some months later, petitioner had no knowledge of the contents of Richardson's testimony other than a newspaper account.

Although committee counsel (Mr. Tavenner) had also questioned Richardson, he did not, at petitioner's hearing, correct petitioner's erroneous assumption as to this particular of Richardson's testimony.

Deutch went on to state that the group on the campus actually became defunct and that during the whole time of his membership in the Party he never found out where the local branch of the Communist Party was; that he did not know what the central committee of the Communist Party of Ithaca did; that he was, to his knowledge, the only graduate student who was a member of the Communist group (petitioner never had a Party card); and in protesting the committee's efforts to obtain the names of his associates, petitioner said, "I think—I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in was not even a professor. The magnitude of this is really beyond reason." To which protest one of the individuals

present (who in the committee print is identified as Representative Jackson) replied:

"That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we representatives to determine. That determination cannot rest with you. It may be very true that the individual to whom you have referred is no longer a member of the Communist Party. However, that is a supposition on your part—and a supposition which the committee cannot accept."
[R. 295]

In reference to the petitioner's having stated that he had moral scruples against informing on others, one of the individuals present (identified in the committee transcript as being Representative Doyle) stated that it was the committee's duty to investigate "all Communist activities" and they were inquiring "into the extent" and that "this question goes into the extent".

Subsequently, the House of Representatives voted a contempt citation against petitioner and he was indicted for violation of 2 U. S. C. § 192.

The counts upon which the petitioner was convicted and sentenced to 90 days and a fine of \$100 set forth the questions as follows:

1. The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party. Will you tell us who that member of the faculty was?

2. Will you tell the committee, please, the source of that \$100 contribution, if it was made?

3. [Judgment of acquittal.]

4. Were you acquainted with Homer Owen?

5. The witness is directed to give the name of the person by whom he was approached.

At trial, the government offered documentary evidence¹ of statements made by *other* chairmen of *other* subcommittees of the House Committee on Un-American Activities at *other* places and *other* times objected to as irrelevant) which established that *those* chairmen stated that *those* subcommittees were investigating Communist activities in the Albany area [G. Exh. 1], [R. 39], or in the Chicago area [G. Exh. 2], [R. 194] or "investigating Communism within the field of labor" [G. Exh. 3], [R. 272].

The government presented one witness (subcommittee counsel Tavenner), who testified that the subject of the hearing was Communist activities in Albany. No evidence was presented tending to show that the subject of petitioner's hearing was communism on the Cornell campus and government witness and counsel negated this subject.

1. The documentary evidence introduced by the government consisted of specified pages from documents published by the committee. Only the pages designated by the government were ever introduced into evidence. These pages were physically contained in booklets and apparently government counsel had the court trial reporter mark the face of the booklets "Government's Exhibit 1, etc.". On appeal to the Court of Appeals, petitioner printed in the Joint Appendix only the admitted excerpts. Upon compilation of the record in this Court, the Clerk of this Court used the original documents forwarded to the Clerk's Office by the Clerk of the District Court instead of the Joint Appendix and since the entire booklets had been marked on their face as "Government's Exhibit 1, etc.", the entire booklets were inadvertently printed and now appear *in extenso* in the record. Thus, approximately three-quarters of the 341-page record is not in evidence and was erroneously printed. On the back of the front cover of each record will be found a table of errata setting forth the pages of the record which are not in evidence and have nothing to do with the case, and should be ignored.

The trial court (Holtzoff, J.) without a jury, found that "the committee was investigating the infiltration of Communism into educational and labor fields" [R. 30]. On appeal, the government urged that the subject under inquiry was the *inter-relationship* between the fields of labor and education. The Court of Appeals found that petitioner was, or should have been, aware of the subject matter under inquiry and the pertinency of the questions thereto but did not state specifically what the subject matter was [R. 330].

On October 10, 1960, this Court granted a Writ of Certiorari.

SUMMARY OF ARGUMENT.**I.**

Petitioner contends that although he did not ever specifically object to any particular question on the grounds of pertinency in so many words, that he voiced such objections by way of his general objections to the committee's jurisdiction and the constitutionality of the proceedings, plus a somewhat extended colloquy protesting the triviality and irrelevancy of the names of others, as to place him within the rule of *Watkins v. United States*, 354 U. S. 178 (1957) as having raised such objections as to require explanation by the committee of the subject matter and the purpose of the inquiry.

Petitioner had considerably less information as to subject matter than did Watkins and far less than the defendant in *Barenblatt v. United States*, 360 U. S. 109 (1959). Both petitioner and Watkins openly revealed that their motivation in withholding names of others, while being completely candid about themselves, was based on moral scruples against informing on the past conduct or associations of others. Petitioner's protests invited explanation; in lieu of explanation, petitioner was told that such matters were exclusively the prerogative of the committee to determine.

II.

Regardless of whether it be determined that petitioner correctly made an objection on the grounds of pertinency, the requirement that a witness be informed as to the subject matter and the requirement that such subject matter be related to a valid legislative purpose exists independently of objection by him. The requirement that there be a subject under inquiry and that the questions be pertinent thereto is an essential element of the crime, since it is an element set forth in the statute under which petitioner has been convicted. The requirement that this subject appear

to the witness with indisputable clarity is established by the decision of this Court in the *Watkins* case which also enunciated the concept of jurisdictional pertinency.

In the sense that, during the course of the hearing petitioner naturally became aware of the fact that the questions all dealt with some aspect of Communism on the campus at Cornell, he was informed, but if this concept of knowledge of subject matter suffices, the requirement is nullified since, presumably, any question has a subject and a series of questions may have a common subject. But the petitioner answered all of the questions about this subject except for the revelation of names of certain individuals and he remained totally uninformed as to what subject of inquiry rendered these names pertinent.

It is common to all three cases (*Watkins*, *Barenblatt* and *Deutch*) that the authorizing resolution of this particular committee is not helpful because of its vagueness and breadth. In petitioner's case there were no other witnesses present and no general statement by anyone of the purpose of the particular subcommittee (which appears to have been convened *ad hoc* to hear petitioner only).

The opening statement of subcommittee counsel stated that the committee wanted to ask petitioner questions about his activity in a Communist Party group on the campus at Cornell and petitioner, of course, testified fully on this subject.

The avenue of information by way of response to a witness's objections was foreclosed when his protests were rebuffed.

In viewing the question of subject matter and the pertinency of the questions thereto, it must be constantly borne in mind that petitioner was indicted and convicted only for refusal to answer four questions requiring the names of other people. He was not indicted, and could not have been since he answered fully, for refusing to tell about the nature and extent of the Communist group on the campus at Cornell.

III.

At trial, the government proved, to the satisfaction of the trier of fact, that the subject under inquiry was Communist activities in the Albany area and/or Communism in the field of labor. There is nothing in the record, either in the documentary evidence (consisting of excerpts from committee documents) or in the testimony of the sole witness, which tends to prove that the subject was the identity of Communists at Cornell or even Communism on the campus at Cornell and, in fact, there was government evidence that the subject was not Communism in education. At petitioner's hearing neither Albany nor labor were ever referred to, but the government is irrevocably committed to those subjects, having proved them at trial. The proving of a subject under inquiry being an inherent requirement of conviction under 2 U. S. C., sec. 192, the conviction must be reversed if no question asked of petitioner related to the subjects proved at trial.

A glance at the four questions in the indictment upon which petitioner was convicted shows they have nothing to do with either Albany or labor. Having proved one subject at trial, the government cannot for the first time on appeal elect a different subject. Yet for the first time, on appeal in the Court of Appeals, in its second brief, the government took the position that the subject was "Communism at Cornell". This petitioner had no opportunity at trial to refute this factual assertion, since the government did not make it at trial and was at pains to negate the idea that the subject was Communism in education. Due process requires that the defendant have an opportunity at trial to meet each essential element of the crime.

IV.

No case hitherto before this court has sustained a conviction under 2 U. S. C., sec. 192 where the recusancy of the witness was solely confined to the identity of others. It is not contended that names may never be related to a

valid legislative purpose. It is contended that where the investigation concerns a purported political movement and, as such, is permitted to compel disclosure in spite of the First Amendment only because of the violently revolutionary tenets of the movement, the data needed by Congress is supplied when the witness fully discloses every aspect of the movement except identity.

Under such circumstances the names of individuals, per se, cannot constitute data which the Congress needs in order to legislate intelligently concerning the Communist threat.

V.

In the *Barenblatt* case, this Court held that where First Amendment rights of the defendant were asserted to bar interrogation (and hence conviction) that "the issue always involves balancing by the courts of the competing private and public interests at stake in the particular circumstances shown". 360 U. S. at 126. Conceding that compulsory disclosure of political associations does, in fact, infringe on the First Amendment, this Court required that the judiciary weight this against the need of the Congress for certain data of use to it in framing legislation.

In this case, neither the trial court nor the Court of Appeals, however, applied the test and balanced the factors. The Court of Appeals relied solely on the rationale of *Barsky v. United States*, 167 F. 2d 241, cert. denied 334 U. S. 843 (1948) holding that the names of other people were not beyond the power of a committee to elicit. Petitioner does not contend that they necessarily are, although no conviction for contempt of Congress has thus far been upheld by this Court where the refusal to answer was solely as to the names of other people.

It is petitioner's contention that affirmance of conviction in this case involves judicial sanction in favor of the investigative power and in derogation of the protection of the First Amendment to a degree which exceeds this Court's decision in the *Barenblatt* case.

Superficially there are similarities in that both petitioner and Barenblatt were questioned largely about Communist activities on a college campus. On the other hand, there are distinct differences. If the weight on one-half of the scale—the public interest side—in turn depends upon the need for Congress to know, there is a distinct and great difference. Barenblatt refused to answer the initial questions as to his own present or past membership in the Party and therefore, naturally, foreclosed from the committee information about the nature, purposes, methods, means of operating, size, etc., of the campus group. Deutch answered fully and freely on all of these subjects. It can be fairly said that he gave the committee a picture of the group as he knew it. This reduces the data withheld to one of mere identity of others. While not contending that such identification, per se, can never be elicited, it is nonetheless argued that the identity of others is one step more remote from the type of data which the Congress (distinct perhaps from the investigative agencies of the executive branch) needs to know.

The “core” legitimizing compulsory disclosure of what otherwise would be a First Amendment-protected political association has been held by this Court to be the advocacy by the Communist Party of violent overthrow.

If it is the violent revolutionary aspects of the Communist Party which justifies compulsory disclosure which would not be permissible were this feature absent, what is the situation where at the hearing itself, this aspect of a particular Communist group is freely discussed by the witness to the full extent that the committee desires to interrogate him? The need to know concerning this “core” has been satisfied and the identity of others is peripheral and tangential.

ARGUMENT.**I.**

The Subject Under Inquiry by the Subcommittee Did Not Appear to Petitioner With Indisputable Clarity at the Time of His Appearance.

A. The state of the petitioner's knowledge of the subject as it existed at the time of the hearing.

Petitioner's hearing was held in an office before then unidentified men. He was not present when other witnesses testified. He was given no statement of the committee's purpose or area of inquiry. He was not aware of what statements other subcommittees might have made on other occasions. He had a subpoena in his hand which merely told him to appear at a certain time and place. He was sworn and the questioning commenced. After the preliminaries of identification and educational background, committee counsel made the following statement and asked the following question:

"MR. TAVENNER: Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

"Were you a member of a group of the Communist Party at Cornell?"

Petitioner challenged the jurisdiction of the committee to ask him this question. But "under protest as to its

constitutionality" he answer "Yes. I was a member of the Communist Party" [R. 293-4].

With the sole exception of the above statement of counsel, petitioner had *no* information as to the subject matter of his hearing, although he did know from a newspaper account that he had been named as a member of the Communist Party by a certain Ross Richardson. He did not know any particulars of Richardson's testimony. Since the sole scintilla of information regarding subject matter at this point was the statement of committee counsel Tavenner, the subject should not be at all enlarged beyond the precise terms of that statement. In the sense in which subject matter was thought of in the *Watkins* case, this, of course, is no announcement of subject matter but merely a recitation, as part of a question, almost identical to that afforded Watkins at the outset of his hearing. See *Watkins v. United States*, 233 F. 2d 681 (C. A. D. C. 1956) at page 682. But assuming that committee counsel Tavenner's introduction to the question announced the subject matter of the inquiry, it announces that the subject is "certain matters relating to *your* activity there" [at Cornell]. [Italics added.] Petitioner was not indicted for refusing to answer any questions on that subject, having answered as to his own activities.

It would be ludicrous to contend that, as the hearing progressed, the witness would not have gleaned a comprehension that since all of the questions related to the Communists at Cornell, the committee must have been interested in Communist activities on the Cornell campus. But this again is, in effect, to read out of the statute the requirement of pertinency and subject matter and to negate the *Watkins* decision, since any rationally conducted interrogation will have a subject in this sense of the word.

Following the witness's affirmative answer as to his membership, committee counsel stated:

"MR. TAVENNER: The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group

on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party."

[R. 294]

Deutch refused to answer this question.

Here again this statement of counsel can scarcely be used to ascribe knowledge of subject matter and the pertinency of the question thereto to the petitioner since it is virtually identical to the question asked Watkins,² the refusal to answer which he was indicted and his conviction reversed by this Court.

It is not disputed, therefore, that at the time petitioner had to elect whether to refuse to answer or to give the names of his campus associates he had available to him no information of purpose, subject matter or pertinency of the questions thereto other than the material contained in the questions of committee counsel Tavenner, reproduced above in its entirety. *He did not know of any general course of inquiry on the part of the committee. He did not know of any statements made by committee chairmen at other times or places. He did not know of the testimony of witnesses who proceeded him, if any.*

B. Comparison of the extent of petitioner's knowledge of subject matter with that of Watkins and Barenblatt.

In affirming the conviction of Barenblatt [*Barenblatt v. United States*, 360 U. S. 109 (1959)], this Court did not consider the validity of Barenblatt's conviction on the counts of that indictment which sought to compel disclosure by him of the names of others. Barenblatt's conviction was

2. The following question was asked Watkins as the initial question of the series which he refused to answer:

"Mr. KUNZIG: Now, I have here a list of names of people, all of whom were identified as Communist Party members by Mr. Rumsey during his recent testimony in Chicago. I am asking you first whether you know these people. My first question: Warner Betterson?" 233 F.2d at 682.

affirmed solely on the basis of three counts which inquired of his own involvement in the Communist Party.

In considering the extent of knowledge of subject matter which was, or should have been, known to Barenblatt, this Court, at page 124 of the opinion, stated that pertinency had been made to appear clearly to Barenblatt because of his becoming apprised of the topic under inquiry via "the other sources of this information which we recognized in *Watkins*, *supra*, at 209-215," These sources are five in number as delineated in the *Watkins* opinion. In each such category petitioner was either on an equal footing with *Watkins* or Barenblatt or had less information.

We will make a comparison using the five sources from the *Watkins* opinion:

1. The first such possible source by which a witness before a Congressional Committee may be apprised of the topic under inquiry is the authorizing resolution of the committee itself. It has been agreed by the government and held by the *Watkins* decision that in the cases of the Committee on Un-American Activities, the authorizing resolution, because of the extreme breadth and vagueness of its language, does not serve this function. Rather, as *Watkins* stated, the problem is one of "distilling that single topic from the broad field . . .", 354 U. S. 178, at page 209.

2. The second of the avenues by which the witness may be apprised of the subject under inquiry is the "opening statement by the committee chairman at the outset of the hearing". Both *Watkins* and Barenblatt had the advantage of an opening statement. Deutch did not.³

3. The government introduced at trial (over objection) a number of opening statements of a number of chairmen of other subcommittees, made in other cities, at other times, and the government repeatedly referred to these statements in their briefs in the lower courts. As will be more fully developed below, these statements tend, if anything, to establish subjects alien to questions which petitioner refused to answer, but for the purpose of this portion of the argument, it is sufficient to emphasize that none of these statements were available to the petitioner at the time of his hearing and he was ignorant of their contents and of the fact that they had been made.

In the case of *Watkins*, this Court decided that that opening statement, although it specifically referred to a bill which would amend the National Security Act of 1950 so as to deny to labor organizations found to be Communist-controlled the use of the National Labor Relations Board,⁴ nevertheless, did not give "guidance" as to subject matter and did not inform *Watkins* sufficiently,—this in spite of the fact that *Watkins*, of course, knew that he was a labor leader and had been named as a Communist.

In *Barenblatt*, there was also a statement of the chairman of the subcommittee as to the scope of the day's hearings.

3. The third source mentioned in the *Watkins* opinion through which the question under inquiry may be ascertained is the action of the full committee that authorized the creation of the subcommittee before which a particular witness has appeared. We are in a similar situation here as in the *Watkins* case, since the authorization was the same, i.e., merely a general resolution empowering the creation of a subcommittee to act for the committee.

4. The fourth source, according to the *Watkins* decision, "are the witnesses who preceded and followed the petitioner before the subcommittee". The record shows that no other witnesses were ever heard by this particular subcommittee. The various other proceedings which have been referred to by the government were in each instance before other differently composed subcommittees.⁵ But even if this particular

4. See footnote 49 of the opinion of this Court in *Watkins v. United States*.

5. The Deutch subcommittee, appointed for "the purpose of taking this testimony this morning," consisted of Chairman Jackson and Representatives Scherer and Doyle [R. 292].

The subcommittee which sat at the hearing in Albany which constitutes government's Exhibit No. 1, consisted of Representative Kearney as Chairman and Representative Scherer as a member.

The subcommittee which sat in Chicago, and whose proceedings are represented by government's Exhibit No. 2, consisted of Repre-

subcommittee on some occasion heard witnesses, petitioner was not present and had no way of knowing of such proceedings. By contrast, both Watkins and Barenblatt were present during the testimony of other witnesses.

In briefs previously filed, the government has contended that petitioner was aware of the previous testimony of Ross Richardson naming him as a Communist and describing Communist activities at Cornell and in New York state, and on page 6 of the government's Brief in Opposition to the Petition for a Writ of Certiorari a similar suggestion is made. It is hardly determinative of the question of the petitioner's knowledge of the topic under inquiry, but the fact of the matter is that petitioner only knew via a newspaper report that Richardson had named him as a Communist at Cornell. Petitioner appeared about a week after Richardson and there was no transcript of Richardson's testimony available to anyone outside of the committee at this time. In fact, counsel did not obtain it until some months later after petitioner had been indicted.

The government also refers frequently to the testimony of one Marqusee [R. 273] (introduced over objection) and the testimony of Owen (not of record) to establish the connection between Communism in the field of labor and Cornell campus. But again petitioner knew nothing of the testimony of these men or even that they had testified; and, furthermore, Marqusee was never referred to at petitioner's hearing and Owen was referred to only in the cryptic question "were you acquainted with Homer Owen?"

sentative Velde as Chairman and Representatives Scherer and Moulder as members:

The subcommittee which sat in Albany on April 7, 1954, and whose proceedings are represented by government's Exhibit No. 3, consisted of Representative Kearney, Chairman, and Representatives Scherer and Walter as members.

The subcommittee which heard the testimony of Richardson, the proceedings of which are represented by government's Exhibit No. 4, consisted of Representatives Scherer as Chairman and Representative Kearney as member.

Therefore, the petitioner had no means of knowing the topic under inquiry by reason of preceding or following witnesses.

5. The fifth and final source of evidence as to the question under inquiry is the response of a member of the committee to an objection on pertinency. In the *Watkins* case, the chairman's response was not held to furnish Watkins with adequate information. It was as follows:

"This committee is set up by the House of Representatives to investigate subversion and subversive propaganda and to report to the House of Representatives for the purpose of remedial legislation.

"The House of Representatives has by a very clear majority, a very large majority, directed us to engage in that type of work, and so we do, as a committee of the House of Representatives, have the authority, the jurisdiction, to ask you concerning your activities in the Communist Party, concerning your knowledge of any other persons who are members of the Communist Party or who have been members of the Communist Party, and so, Mr. Watkins, you are directed to answer the question propounded to you by counsel." (p. 683)

The response of a committee member to petitioner's protest was:

"MR. DOYLE: Now manifestly our counsel, in asking you the name, etc., goes into the extent of the existence of the Communist cell, don't you see? All Communist activities. I wanted to emphasize that to you because you were referring to Public Law 601 and relying on that in your statement which you read. So I can come right back to you and ask, or call to your attention the fact that under our Congress we have the duty or we are charged with looking into the extent, you see, which the Communist Party has acted. Therefore, you see I

am calling your attention to the fact that this question goes into the extent. I just wanted to call that to your attention, just in case you didn't realize the kind of question that was."

"MR. DEUTCH: Yes, I see. The only thing I am saying, sir, my challenge is, is it constitutional under Public Law 601?"⁶ [R. 295-6]

It would seem to be little to choose between the two. The record shows that petitioner in this case lacked several of the sources of information as to the subject matter or the topic under inquiry, that is, that "single topic from a broad field" of Communism which the *Watkins* decision requires and he was, therefore, in a less advantageous position to make the choice that he was forced to make at the time of his hearing than either *Watkins* or *Barenblatt*.

C. It is not required that any particular form of words be used by a witness in raising the question of pertinency.

The government has contended, and the Court of Appeals agreed, that the entire question concerning the purpose, scope and subject of the inquiry turns on whether or not petitioner at the time of his hearing objected on the grounds of pertinency. To this there are two answers: petitioner objected on these grounds to as great an extent as did *Watkins* and, more important, the necessity that a witness be informed as to subject matter exists independently of specific objection by him and is more far-reaching and subtle a requirement than a mere awareness of a common thread in the questioning.

It has become, or is in the process of becoming, an accepted fact that *Watkins* specifically made objection to the

⁶6. Counsel was puzzled by petitioner's reference to "Public Law 601". After the hearing, Petitioner pointed out to counsel that the subpoena states that appearance is required before the Committee on Un-American Activities established pursuant to Public Law 601.

pertinency of the questions which he refused to answer. Actually, the record in the *Watkins* case shows that the word "pertinency" was never spoken by him and his objection was, in toto, strikingly similar to that of petitioner. It was based mainly upon his refusal to inform on others. Watkins' statement was as follows:

"MR. WATKINS: Mr. Chairman, in regard to that question, I would like to make a very brief statement I prepared in anticipation of this answer.

"MR. VELDE: You may proceed.

"MR. WATKINS: Thank you. I would like to get one thing perfectly clear, Mr. Chairman. I am not going to plead the fifth amendment, but I refuse to answer certain questions that I believe are outside the proper scope of your committee's activities. I will answer any questions which this committee puts to me about myself. I will also answer questions about those persons whom I knew to be members of the Communist Party and whom I believe still are. I will not, however, answer any questions with respect to others with whom I associated in the past. I do not believe that any law in this country requires me to testify about persons who may in the past have been Communist Party members or otherwise engaged in Communist Party activity *but who to my best knowledge and belief have long since removed themselves from the Communist movement.*

"I do not believe that such questions are relevant to the work of this committee nor do I believe that this committee has the right to undertake the public exposure of persons because of their past activities. I may be wrong, and the committee may have this power, but until and unless a court of law so holds and directs me to answer, I most firmly refuse to discuss the political activities of my past associates." [233 F. 2d 682, at page 683.]

The foregoing constitutes Watkins entire objection. The gist is a statement of unwillingness to inform on others.

Is there any significant difference between this statement (which was designated by this Court in *Barenblatt* as "a specific objection . . . on the ground of pertinency") and petitioner's moral scruples about informing together with his challenge of the jurisdiction of the committee and the constitutionality of the proceedings, particularly when read in the light of his colloquy with Representative Jackson, discussed below?

The Court of Appeals opinion relies on the fact that "pertinency" and "unawareness of the subject" were not raised by petitioner until trial in the District Court [R. 338]. But in the *Watkins* case the pertinency point and unawareness of the subject matter was *not even argued in Watkins' Brief filed in this Court. Watkins v. United States*, No. 261, Brief for Petitioner, Index, Argument, p. 24, *et seq.*

It is repeated that petitioner does not contend that the course of the questions did not reveal the fact that they revolved around the Communists on the Cornell campus. But petitioner answered all these questions. He refused to answer, and was indicted, only in connection with a few questions seeking the names of his associates. And what petitioner did not and could not know, and what we do not know to this day is the pertinency of *these* questions to the subject of Communism at Cornell (if that was the subject under inquiry), or the subject of labor and/or the Albany area if, as the government contended at trial, that is the subject.

It is in this sense that the topic is obscure.

D. *Petitioner sought to be advised of the significance of the questions and his duty to answer.*

The essence, after all, of the requirement that the subject and the pertinency of the questions be clear is one of due process. It is founded upon the concept that the stat-

ute (2 U. S. C. § 192) does not punish any and all refusals to answer but only refusals to answer questions "pertinent to the subject under inquiry". That the questions be so pertinent is an element of the crime. This being so, it it follows that fundamental fairness demands that the witness, at the moment at which he must decide whether the law requires him to respond to that which (for reasons which are, in our scale of values, honorable) he is strongly motivated not to respond, be aware of how the facts sought to be elicited of him pertain to a subject into which Congress can legitimately inquire by compulsion of law.

Thus this Court, in the *Watkins* case, said:

"Plainly these committees are restricted to the missions delegated to them, i.e., to acquire certain data to be used by the House or the Senate in coping with a problem that falls within the legislative sphere. No witness can be compelled to make disclosures on matters outside that area. This is a jurisdictional concept of pertinency drawn from the nature of a Congressional committee's source of authority. It is not wholly different from nor unrelated to the element of pertinency embodied in the criminal statute under which petitioner was prosecuted." 354 U. S. at 206.

This kind of pertinency is an inherent requirement. It does not have to be raised. But it was raised by petitioner, albeit clumsily, at the hearing in a colloquy with Representative Jackson. Deutch, having told about himself, refused to give the name of the member of the faculty who had left the Communist Party, saying:

"MR. DEUTCH: Sir, I am perfectly willing to tell about my own activities, but do you feel I should trade my moral scruples by informing on someone else?

"MR. JACKSON: Let the Chair say that moral scruples on your part do not constitute a legal reason for declining to answer the question, and you are directed to answer the question.

"MR. DEUTCH: At this time I do think so, sir, because I had certain ideas and people I came in contact with had certain ideas. I didn't believe in force or violence, or anything like that.

"MR. JACKSON: That is entirely beside the point. You have been asked a question and we must insist that you answer the question or decline to answer it, and your declination must consist of something more than your moral scruples.

"MR. DEUTCH: As to details of that, I think the whole question has been magnified more than it should have.

"MR. JACKSON: There is a question pending and the Chair must insist that you answer the question that has been asked."

. . .

"MR. JACKSON: You therefore refuse to answer the question that is pending, is that correct?

"MR. DEUTCH: Yes, sir, but I could amplify that point. I do not mean the point of contempt. I think—I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in wasn't even a professor. The magnitude of this is really beyond reason.

"MR. JACKSON: That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we Representatives to determine. That determination cannot rest with you. It may be very true that the individual to whom you have referred is no longer a member of the Communist Party. However, that is a supposition on your part—and a supposition which the committee cannot accept.

"Again I direct you to answer the question."

A fair reading of these protests of petitioner is, in effect, that in view of the insignificance of the group, the insistence of the committee amounted to the collection of past minutiae, which the *Watkins* opinion characterized as leading to "exposure of private lives in order to gather data that is neither desired by the Congress nor useful to it." Counsel might have put it in the form of a request to be informed of how the information sought related to data needed by the Congress, but it must be remembered that the committee *does not permit counsel to speak*. (Counsel cannot make objections, but is confined by committee practice to whispered sotto voce conferences with the witness and then only if the witness initiates the conference.)

The committee chairman understood this as having raised such a question and it is contended that petitioner was entitled to at least some information. The response, however, was to the effect that he was not entitled to be further enlightened:

"That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we representatives to determine. That determination cannot rest with you."

There is no doubt that the witness, and probably also his counsel, was groping, but there is also no doubt that he sought some enlightenment beyond the obvious fact that the committee was asking questions about the activities on the Cornell campus. The youth and extreme nervousness of the witness and the fact that the hearing was an isolated event unconnected with any course of inquiry (other than that the witness had been named as a Communist) required that some explanation be afforded the witness if he were expected to make the hard choice of going beyond complete candor as to himself by giving the names of others.

II. The Government Is Committed to the Subject Proved at Trial and Conviction Cannot Be Sustained If This Subject Was Either Untouched Upon at the Hearing or Unknown to Petitioner and It Is Too Late on Appeal for the Government or the Courts to Construe a Subject Other Than That Proved at Trial.

The Government has steadily insisted that the subject appeared to petitioner with indisputable clarity and yet during the course of this case the government has nominated a number of different subjects. The trial judge in his opinion gave still a different version and the Court of Appeals nowhere in its opinion states what, in its view, the subject was.

A. The Government's evidence at trial tended entirely to establish that the subject was Communist activities in the Albany area and/or Communism in the field of labor, and there was evidence introduced by the Government that the subject was not Communism in education.

The transcript of petitioner's hearing before the subcommittee is devoid of any material concerning infiltration into labor or the Albany area. The committee print of petitioner's testimony bore the title, "Communist Methods of Infiltration—Education—Part 8". The opening statement of government counsel [N. T. 3-14] commenced as follows:

"MR. HITZ: Your Honor, this defendant is named Bernhard Deutch. He was called before the Un-American Activities Committee here in Washington on April 12, 1954 in an investigation for legislative purposes which was being made by that committee; in this instance, particularly with reference to the geographical location of Albany, New York, and cities thereabouts."
[N. T. 3-4]

The government's opening went on to describe the Albany hearings and the infiltration by the Communist Party of the industrial plants and labor unions (not touched upon at

Deutch's hearing) and then described the testimony of a man named Marqusee who had been in the School of Industrial and Labor Relations at Cornell (neither Marqusee nor the School was referred to in Deutch's hearing). Counsel then discussed the Labor Youth League and Marqusee's membership in it. (Labor Youth League was not referred to at the Deutch hearing.) Counsel then spoke of factories in Binghamton (not adverted to in petitioner's hearing) whereupon the Court inquired:

"THE COURT: I was just wondering whether all of these ramifications are necessary for the purpose of this case?"

To this government counsel replied that they would like to offer them in evidence and went on to talk about the General Electric plant at Syracuse, the International U. E., the Communist dominated U. E. and then stated [N. T. 9]:

"These matters had interest for the committee not only in the general area, which was sufficient, of course, to show Communist infiltration, but also to show in the field of labor and in the field of education that there was (sic) the dangers that Communist conspiracy had to suggest."

The government then proceeded to offer (over objection on the grounds of relevancy) government's Exhibit No. 1 consisting of pages 2361 and 2363 of a document published by the Committee entitled "Investigation of Communist Activities in the Albany Area—Part I."⁸

Government's Exhibit 1 consisted of a statement by the chairman of another subcommittee of the House Committee on Un-American Activities made in Albany, New York,

7. It is the above statement which the government in footnote 11 to their Brief in Opposition to the Petition for a Writ of Certiorari relies upon to contend that the Government's opening statement at the trial included education as a matter of interest to the committee.

8. All of this document was erroneously printed. The portion constituting government's Exhibit 1 in its entirety appears on pages 38-40 of the record.

a little prior to petitioner's hearing. There is no mention of education or Cornell in the statement of the purpose of the hearing; the subcommittee chairman stated [R. 39] that the investigation was concerned with "Communist Party activities within the Albany area".

Petitioner's counsel objected on the grounds that there was nothing in the petitioner's hearing having to do with the Albany area and the document was therefore irrelevant. This objection was overruled.

The government then introduced into evidence government's Exhibit No. 2 consisting of pages 4165 and 4166 of a document printed by the committee entitled "Investigation of Communist Activities in the Chicago area—Part I." ¹⁰

Over defense objection this document was admitted to establish the purpose and subject matter of petitioner's hearing. The admitted portion consists of a statement of the chairman of a subcommittee, other than that which heard petitioner, made at hearings held in Chicago. There is no mention in the chairman's statement of education or Cornell. It so happens that government's Exhibit No. 2 is the same exhibit introduced by the government in the *Watkins* case to prove that the subject of that hearing was infiltration into labor. It does so prove.¹¹ How is it possible for the

9. The government in the Court of Appeals at one point halfheartedly argued that Cornell was in the Albany area. We feel assured that it will be conceded that Ithaca, just to the west of the middle of the state, is closer to Lake Erie than to the Hudson and not economically, culturally or geographically a part of the industrial valley section of Albany, Schenectady and Troy, which lies 150 miles to the east.

10. The entire document was erroneously printed in the record; the only portion admitted in evidence is that which appears on pages 192-194 of the record.

11. It is interesting to note that the Court of Appeals in its opinion in *Watkins v. United States*, 233 F. 2d 681, found, on the basis of this same exhibit, that "the purpose of the Committee's hearing was to aid it [the Committee] in its study of a proposed amendment to the Internal Security Act of 1950 . . . it made unavailable to labor unions found to be Communist-infiltrated, procedures established in the Labor-Management Relations Act of 1947 . . ." (p. 686)

same statement of purpose to be applicable to two hearings as different in content as that of Watkins and that of Deutch? The chairman's statement which constitutes government's Exhibit 2 is entirely concerned with infiltration in labor, particularly in the Chicago and mid-western area of the United States. It was admitted to show the purpose of Deutch's hearing although nothing in this hearing even touched upon any such matters.

The government then immediately introduced government's Exhibit No. 3, again over defense objection, consisting of the opening statement of the chairman of a subcommittee of the House Committee on Un-American Activities made in Albany, New York, on April 7, 1954 [R. 270-273] and the testimony of one John Marqusee [R. 273-281]. The statement is that of a chairman of a subcommittee other than the subcommittee who heard the petitioner. After reviewing the results of the hearings held the year before in Albany and the fact that they resulted in the resignation of a member of the Federal Mediation and Conciliation Service, the subcommittee chairman's statement was that the committee "is investigating Communism within the field of labor where it has substantial evidence that it exists" [R. 272]. Nowhere in the chairman's statement on the subject under inquiry is there any mention of education or Cornell.

The testimony of Mr. Marqusee [R. 273-281] is concerned largely with the U. E. and the infiltration of that union and others mostly in and about Schenectady. Marqusee did say that he had become connected with the U. E. by reason of having been in the School of Industrial and Labor Relations at Cornell University. Mr. Marqusee did not mention the petitioner and at petitioner's hearing no mention was made of Mr. Marqusee or the School of Industrial and Labor Relations at Cornell or any other matter touched upon in Mr. Marqusee's testimony. The petitioner, of course, was ignorant of Mr. Marqusee's testimony and the fact that he testified and did not know him.

The government then introduced government's Exhibit No. 4 consisting of excerpts from the testimony of Emanuel Ross Richardson [R. 282-290]. Richardson was an employee of the FBI and the superior in the Communist Party of the petitioner. Only a portion of Richardson's testimony is printed in the record. His full testimony occupies thirty pages of committee print. The subcommittee who heard Richardson was not the same subcommittee that heard the petitioner. Richardson named Deutch as a member of the Communist Party. He also testified widely about Communist activities in New York State but did not connect petitioner with any of them, solely confining his identification of petitioner as a student at Cornell and alleging that he, Deutch, knew of a faculty member who was a Communist.

As will be seen from the record of Richardson's testimony he did not state that this faculty member was to his knowledge no longer a member of the Communist Party. During his hearing Deutch, having read in the newspaper that Richardson had testified, stated to the committee that they must know from Richardson's testimony that the faculty member was no longer a member of the Communist Party since Deutch knew that he had told Richardson this at a time when Richardson was the "Communist" to whom Deutch paid his Party dues. Actually Richardson had not mentioned this fact in his testimony. Petitioner never had an opportunity to hear Richardson's testimony or read his testimony. The government has repeatedly contended that petitioner was familiar with Richardson's testimony and therefore via this testimony was aware of the purpose of his own hearing. Actually, petitioner's remark establishes that he was *not* familiar with Richardson's testimony, he knew only that Richardson had named him as a member of the Party and this information was entirely via a passing reference in a news account.

Government's Exhibit No. 5 is the testimony of petitioner himself. The government's Exhibits Nos. 6 and 7 are

lengthy summaries of the work of the Committee entitled *Annual Report for 1953 and 1954*.

The government then called its only witness, Committee counsel Tavenner. His testimony in its entirety appears in the record, pages 11 to 27, inclusive. At the outset government counsel invited Mr. Tavenner's attention to the fact that the exhibits of other hearings introduced by the government in evidence (discussed above) were labeled "Albany", whereas, the title on the front of the committee print containing Deutch's testimony was "Education". In R. 14, this question and answer appears:

"By Mr. Hitz:

Q. How does it happen that Mr. Deutch's testimony appears in 'Education—8' if it was a part actually of 'Albany'?

A. Well, the staff in the releasing of this testimony at a later date placed it for convenience under the heading of 'Education.'

Q. What connection was there between it and the investigation entitled 'Albany, New York'?"

The witness never said what the connection was.

Rather, over objection, the witness testified [R. 14, et seq.] as to the background of the Albany hearing, the fact that petitioner was called in Washington rather than Albany but before the same subcommittee (in this the witness was in error),¹² the fact that Richardson named Deutch and mentioned the faculty member and ultimately nominated the purpose of the hearings as being "*a general investigation of Communist Party activities in what was referred to as the 'Capitol area'*" [Albany] [italics added] [R. 19]. Mr. Tavenner did testify that it had come to the attention of the staff of the committee that some mem-

12. The record shows that the subcommittee appointed to take Deutch's testimony [R. 292], consisted of Jackson, chairman, Shefer and Doyle, members. This subcommittee did not take any other testimony in Albany, Chicago or, according to the record, anywhere else.

bers of the Industrial Relations Department at Cornell were accepting positions with some labor unions which were Communist controlled and that the Committee wanted more information about this practice [R. 24]. Whether the committee sought such information or not, the fact is that they did not seek it in petitioner's hearing since there was no mention of this subject.

Now, if the government proved anything, they proved that the subject of petitioner's hearing was Communist activities in the Albany area and the infiltration of labor unions by Communists. Although they stopped short of alleging it as the subject, they did advert to the practice by which an individual unknown to petitioner (Marqusee) had joined a Communist dominated labor union by reason of the fact that he was enrolled in the Industrial Relations School at Cornell. However, the government negated the idea that "education" was the subject by having Mr. Tavenner explain that the label on the committee print of petitioner's testimony was done by the staff purely for convenience, i.e., had no significance.

It is obvious from a merely cursory reading of the testimony of petitioner that the subjects of Albany and infiltration into labor unions were not the subject of his hearing. The particular practice related by Marqusee (the Cornell student who joined a Communist dominated labor union) does, in a remote and circumstantial sense make a purely casual connection between labor and Cornell, but still not with petitioner's hearing. He was not asked about Marqusee and he was not asked about whether or not he was familiar with this practice, if it was one. If the committee was interested in that, they could have asked him and there was no reason to suppose he would have refused to answer, and give the committee information if he had any about the Industrial Relations School so long as it did not involve names, which names the committee already had from Marqusee and Richardson as far as the Industrial Relations School was concerned. But he was asked about

no such matters and he was not even asked about the Labor Youth League, which the government states was active on the Cornell campus. Perhaps the subcommittee *could* have taken a different tack and perhaps they *could* have thus connected Deutch's hearing with the investigations of other different subcommittees re Albany and labor, but they did not.

The government in its closing argument to the trier of fact adverted to the Albany hearings, infiltration of the labor unions in that area, the Labor Youth League, Ithaca, Binghamton, Syracuse, the General Electric plant in Schenectady, and the Industrial Relations School.

In defense summation, counsel, relying on the government's own proof that the subject was Albany and labor explicitly renounced the right to make an argument which would have been appropriate if there had been proof that the subject was the identity of Communists on the campus at Cornell [N. T. 114]. The government let this stand.

The trial judge, confronted with a variance between the government's proof of subject and the fact that the questions did not touch upon Albany or labor, found that the committee was investigating the general subject of infiltration of Communism into the educational and labor fields [R. 32].

In the government's brief filed in the Court of Appeals, it is stated at page 1 that petitioner was called "in the course of an investigation covering Albany and the adjacent up-state New York area".

On page 2 the brief states that the trial judge found that the subcommittee was investigating the inter-relationship of infiltration into education and infiltration into labor, although there was no such statement in the opinion of the trial judge [R. 30-34].

On page 4 of the brief, the government states that the committee was interested in finding out to what extent students in the industrial and labor relations school were influenced to select Communist-controlled unions for their

summer work. (If the committee was interested in this, it is curious that they asked petitioner nothing about it.)

Finally, on page 14 of the brief, the government takes the position that it is the statements of chairmen at committee hearings prior to that of petitioner's which reflected the subject matter under inquiry, i.e., government's Exhibits 1, 2 and 3, which do not mention education but only activities in the labor area and/or infiltration into labor unions in the midwest. Nowhere in this brief is it stated that the subject was Communist activities at Cornell University.

After the filing of that brief, and prior to the decision of the Court of Appeals in this case, this Court handed down its decision in *Barenblatt v. United States*, 360 U. S. 109 (1959). Whereupon the government filed a reply brief in the Court of Appeals which, at long last, flatly stated that the subject under inquiry was Communist activities at Cornell University.

Doubtless the government avoided designating the subject as being the identity of the student members of the Communist group at Cornell out of concern lest this Court ultimately determine that under all the surrounding circumstances, a member of such a group would be protected by the First Amendment from compulsory disclosure of the names of his associates, i.e., that the balance between the need for certain data to be used by the Congress in combating the menace of Communism would be so slight in the case of a half dozen young men meeting under the paternal wing of an FBI agent as to be outweighed by the right of freedom of political association, which is admittedly infringed upon by compulsory disclosure. See *Sweezy v. New Hampshire*, 354 U. S. 234 (1957).

The *Barenblatt* decision made it clear that a college campus was not to be considered a privileged sanctuary and the government then felt free to shuck off the incubus of contrived proof that Albany or labor or the inter-relationship between labor and education was the subject thus eliminating the dilemma created by the fact that no ques-

tions were asked petitioner on these subjects, and felt free to rely on the fact that all of the questions pertained to proof of student Communists on the Cornell campus.

B. It is the petitioner's contention that the government is bound by the proof offered at trial.

What the government here attempts is not merely a change of *legal theory* during the course of appeal; it is an attempt to substitute proof of a material element of the crime. The statute under which petitioner was convicted does not punish any and all refusals to answer Congressional committees but only refusals where the questions are "pertinent to the subject under inquiry". Therefore, proof of the subject under inquiry is an essential element of the crime and a prerequisite to conviction, since it is otherwise logically impossible to know to what it is that the questions refused must be pertinent.

By the same token, a defendant has the right to be confronted at trial with evidence of each essential element of the crime—in this case, evidence of the subject matter. The prosecution may in the course of appeal shift its emphasis or even adopt new legal theories; it cannot argue that it could have proved at trial without difficulty an alternative version of an essential factual element. It cannot abandon a factual element of a crime proved at trial and seek to substitute another which, by hindsight, is more realistic and which in the light of later decisions now appears to them to be constitutionally less risky than it did at the time of trial.

All of the government's documentary evidence asserts the subject to be Albany and/or labor. None of it adverts to an investigation into education. The government's only witness, although his testimony in places is somewhat garbled, proved the same thing. The difficulty with this is that no questions asked Deutch touched upon the infiltration into labor or Communist activities in the Albany area, or even the inter-relationship between infiltration into labor

and into education, and such evidence, as it exists, is that the petitioner, who has never been in the Albany area and has never been connected with a labor union, has no knowledge of these fields. The government seeks to solve this difficulty by reverting to a subject which they elected to avoid at trial.

All of the varying nominations by the government at different times of what the subject was hardly serves to convince us that the subject appeared to the petitioner with undisputable clarity. The question arises which subject out of the several mentioned appeared to the witness with undisputed clarity? In this state of affairs, it makes no difference whether the witness did or did not properly raise the issue of pertinency. There nonetheless must be a subject under inquiry, which subject must be proved at trial.

Fundamental due process requires that the defendant have an opportunity at trial, before the trier of fact, to refute each and every essential, factual element of the government's case, to cross-examine and elect to take the stand or not in the light of the state of the evidence at the close of the case for the prosecution. This defendant had no opportunity at trial to refute the factual assertion now made that the subject was Cornell. Furthermore, the defense was likewise deprived of an opportunity to contest and argue whether the subject now brought forward was a legitimate subject for inquiry or that the authorized investigation was labor and Albany and that Cornell was a "brief excursion" of an *ad hoc* subcommittee which was not authorized by the parent committee.¹³

In fact, in argument to the trier of fact, petitioner's counsel specifically stated that he was not going to argue that Communism at Cornell or in education was not a proper subject because the government had agreed at trial that it was not the subject under inquiry [N. T. 114]. The prosecution has the last word and they let this stand.

13. As in *Sacher v. United States*, 356 U. S. 576 (1958).

After an express renunciation by defense counsel of a right to argue a question of fact (because uncontroverted at trial) can the government now urge that fact upon this Court?

The situation is analogous to that which prompted this Court to reverse the conviction in *Shepard v. United States*, 290 U. S. 96 (1933). There it was held that on a trial for murder, where the defense was suicide, a statement that the deceased had made accusing the defendant, erroneously let in evidence as a dying declaration, could not be treated on appeal as properly in the case on the theory that, as evidence of the defendant's state of mind, it could have been admitted to rebut the suicide defense. Mr. Justice Cardozo for the unanimous court pointed out that such a procedure was unfair and "the course of the trial put the defendant off his guard" (290 U. S. at 103).

Likewise, to permit the government to now put forward a different (albeit more plausible) subject is unfair because the assertion at trial of the unsupportable subjects of Albany and labor "put the defendant off his guard." Counsel, realizing that, over objection, the government was busily proving subjects not even adverted to in the hearing before the Committee, relying on a sole witness who negated a purpose of investigating education and asserted a rambling amalgam of subjects, none of which were involved in the indictment questions, naturally refrained from cross-examination. The defendant did not take the stand.

Due process demands that the prosecution be bound by trial proof of each element of the crime. Conviction cannot be sustained on appeal on the theory that the government could have proved something else at trial and, had they done so, such proof would have to be sufficient to sustain a conviction. See *Kotteakos, et al. v. United States*, 328 U. S. 750 (1946), and *United States v. Klass, et al.*, 166 F. 2d 373 (C. A. 3d, 1948).

III. Where Witness Discloses All to a Congressional Committee Investigating Communism Except the Names of His Associates, There Is No Legislative Purpose to Be Served by Compelling the Disclosure of These Names.

No case hitherto before this court has sustained a conviction under 2 USC § 192 where the recusancy of the witness was strictly confined to the identity of others. In the two cases where this was the only information refused, *Watkins* and *United States v. Rumely*, 345 U. S. 41 (1953), this Court reversed. In *Barenblatt* this Court expressly refrained from passing upon the counts in which the questions were, in this respect, similar to those in the instant case. It is not contended that names may never be related to a valid legislative purpose. It is contended that (aside from the protection of the First Amendment) the data needed by Congress is supplied when the witness fully discloses every aspect of the political movement under investigation except identity.

In the *Watkins* case this Court said:

“Plainly these committees are restricted to the missions delegated to them, i.e., to acquire certain data to be used by the House or the Senate in coping with a problem that falls within its legislative sphere.”
354 U. S. at 206.

Very plainly the committee received the sort of information to which the court in the above statement confined them. The “legislative sphere” is the sphere of the formulation of general rules, applicable to all individuals, or all in a given class, the “certain data” necessary to intelligently formulate such rules is naturally that pertaining to quality and quantity, it is data concerning the nature, purposes, aims and complexion of the problem to which legislation might be addressed. It is the *activities* not the *actors*.¹⁴ Perhaps petitioner’s disclosures about the nature

14. It is the Committee on Un-American Activities, not the Committee on Un-American Actors.

and activities of the campus group might be helpful in this respect. If more had been desired along these lines further questions could have been asked.

On the other hand, it is rare indeed that identity of individuals will be necessary, or even useful in the process of legislation. There are exceptions of course, the most obvious where legislative investigations are concerning themselves with the operations of the government itself. But where the investigation, legitimate as it may be, necessarily involves the interrogation of private citizens as to affairs which are classically *political*, it will be rare indeed that the identity of individuals will be such data as the Congress requires to legislate. Punitive or discriminatory legislation directed against a specific individual is barred by ancient tradition and by the Constitution as a bill of attainder.

It is fundamental in the doctrine of the separation of powers that the identification of specific individuals who may or may not be engaged in illegal activity is the exclusive concern of the legislative branch and punishment of those individuals who have been accused by the Executive Branch is exclusively the province of the Judicial Branch.

In *Barenblatt*, this Court permitted questions which sought to compel the disclosure by the *witness* of his own membership in the Communist Party. But this is a matter on a very different footing and the similarity is superficial. For without this knowledge the investigating committee is foreclosed at the outset from *any* inquiry since it would be meaningless to ask a person, who will not disclose whether or not he was a Communist and participated in Communist activities, anything further about the nature and aims of Communists. Furthermore, even if such a witness were to answer other questions the committee would have no way to evaluate the information given if they did not know whether the person relating the information had been involved himself or not. Without disclosure by a witness of

whether he was a Communist there would be no context to any further answers he might give.

Exposure for exposure's sake is conceded to be beyond the power of a committee and therefore to sustain conviction it must be determined that, for example, the name of the personal friend of Deutch's who gave him \$100.00 (Count 2) is data which the Congress needs in order to legislate.¹⁵

Petitioner here contends that totally aside from any protection which he may be accorded under the circumstances of this case by virtue of the First Amendment, these indictment questions fail because it is not possible to discern in them a valid legislative purpose. In *Watkins* this Court required that it appear that "a particular inquiry is justified by a specific legislative need", 354 U. S. at 205.

In *Barenblatt*, this Court, quoting *McGrain v. Daugherty*, 273 U. S. 135, 160, confined the committees to "testimony needed to enable it [Congress] efficiently to exercise a legislative function belonging to it under the Constitution". What specific legislative need in order to carry out the constitutional legislative function, could possibly be fulfilled by requiring petitioner to name the Cornell student who invited him to join the Communist Party when he has already disclosed to the committee the circumstances and motivations which impelled him to join, and the nature and activities which he knew about after his joining? It would rather appear that this item of information is an example of that "probe for a depth of detail even farther removed from any basis of legislative action" by way of the collection of past minutiae which this Court warned against in the *Watkins* opinion.

15. It is interesting to note that the question which Rumely (*United States v. Rumely*, 345 U. S. 41 (1953)), refused to answer and conviction for which was reversed by this court was virtually identical to the question comprising count No. 2 of the petitioner's conviction. Rumely was asked the name of a lady from Toledo who gave him \$100.00 to further Rumely's political activities and Deutch was asked the source of the \$100.00 which he received to further his political activity.

IV. Sustaining Conviction of Petitioner in This Case Requires a Greater Constriction of the Protection of the First Amendment as Balanced Against the Need of the Congress for Information Than in Any Preceding Case.

Contention that Congressional hearings involving the investigation of Communism violate the First Amendment rights of witnesses by forcing disclosure of political associations has been made in a number of cases. This Court has declined to accept the proposition that this is necessarily so in every instance and has, rather, on the one hand, recognized that such compulsory disclosures infringed upon the First Amendment while on the other hand reserving the question of whether or not such infringement is a permissible one, this to be decided in the light of the circumstances of the particular case.

Petitioner does not intend to here argue what might be called the *absolute* First Amendment position and accepts for the purposes of this case the *relative* position enunciated most clearly in the *Barenblatt* case. Nor would petitioner presume to catechise this Court on the transcendent importance of First Amendment rights. But it is pertinent to emphasize, nevertheless, the very material derogation of the right of free and unfettered association in unorthodox and heretical movements which is brought about by the compulsory disclosure of such activities before Congressional committees.

The larger interests here at stake transcend those of petitioner, himself, it being vital to the vigor of a free society, that even the most extreme fringes of political thought be accorded First Amendment protection. This is particularly true of a student.¹⁶ Nevertheless, this Court, commencing with *American Communications Assn. v. Dowds*, 339 U. S. 382 (1950), has applied special standards

16. "Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die." *Sweezy v. New Hampshire*, 354 U. S. 234 at 250.

in the case of members of the Communist Party. Without exception, the rationale for these decisions was the fact that along with political tenets that were merely unorthodox, the Communist Party had also the tenet of violent overthrow of the government and that there were reaches of the Communist Party in which political activity blended into a conspiracy. It is certainly now common knowledge, however, that each and every person who passed through membership in the Communist Party was not necessarily committed to such belief or action and may not necessarily ever have been exposed to such tenets in the Communist Party.¹⁷

This Court has itself recognized and distinguished between the leaders of the Party nationally and casual short-time, rank and file members. See *Konigsberg v. State Bar of California, et al.*, 353 U. S. 252 (1957). From the outset of this case in 1954, petitioner has urged his First Amendment rights in the *relative* sense. Petitioner's Motion to Dismiss, filed February 11, 1955 [R. 9], raised this point and

17. It has been estimated that, although the total strength of the Party at no one time ever exceeded 75,000, over 700,000 people went through the Communist Party. See *Report on the American Communist*, Ernst and Loth (Holt 1952). The phenomena of transitory membership in the Communist Party during extreme youth, followed by disillusionment, is not an uncommon one and it is difficult to perceive such connection between this kind of membership and national security as justifies infringement of the First Amendment. See *The Witness*, Whitaker Chambers (Random House 1952), p. 12: "Now, by ex-Communists do I mean those thousands who continually drift into the Communist Party and out again. The turnover is vast."

As is concluded by Krugman in the *Appeal of Communism to American Middle-Class Intellectuals and Trade Unionists*, 16 Public Opinion Quarterly, No. 3, p. 331, the Communist Party is, on the whole, well equipped to develop, in the course of time, hostility and conformance in its members but it loses members in the process. As was testified to, for the prosecution, by John Lautner, former member of the National Review Commission of the Communist Party and a Party professional for twenty-five years, in *U. S. v. Fujimoto*, 102 F. Supp. 890 (D. C. Hawaii, 1952), N. T. p. 5162: "The Party was like a barn door, they were coming in and going out. As soon as new members found what the Party was they left. Year in and year out there was almost a hundred—well, a large percentage of turnover in the Party."

the brief filed in support thereof argued that the infringement of petitioner's First Amendment rights inherent in the proceedings before the committee could not be justified because of the lack of a reasonable relation between the area of petitioner's knowledge and information and the national security and that these factors must be weighed in each case.¹⁸

In the *Watkins* decision (354 U. S. at 205), the Court spoke of the need "to strike a balance between the public need for a particular interrogation and the right of citizens to carry on their affairs free from unnecessary governmental interference". There the Court adverted to the fact that "the government contends that the public interest at the core of the investigations of the Un-American Activities Committee is the need by the Congress to be informed of efforts to overthrow the government by force and violence so that adequate legislative safeguards can be erected". Petitioner accepts this justification as the law of this case.

This concept was further refined and made more explicit by the majority opinion in the *Barenblatt* case, where it was stated:

"The Court's past cases establish sure guides to decision. Undeniably, the First Amendment in some circumstances protects an individual from being compelled to disclose his associational relationships. However, the protections of the First Amendment, unlike a proper claim of the privilege against self-incrimination under the Fifth Amendment, do not afford a witness the right to resist inquiry in all circumstances. Where First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a

18. Only because the government's brief in opposition to a Petition for Writ of Certiorari (p. 13) argues that the First Amendment is not applicable in this case because the petitioner failed to rely on it in refusing to answer questions, do we point out the obvious fact that the First Amendment is a restraint on government action, not a personal privilege which must be invoked like the privilege against self-incrimination of the Fifth Amendment. No American has to "plead" the First Amendment.

balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." [360 U. S. at 126]

Petitioner submits his case to the balancing test established above. Petitioner earnestly contends that if, as stated above, "the First Amendment in some circumstances protects an individual from being compelled to disclose his associational relationships" that he is preeminently eligible for qualification under this principle, and to hold otherwise is tantamount to holding that the principle can never apply in an inquiry concerning Communism. Although this Court, as noted above, has recognized the peculiar position of Communists, it has never gone so far as to create for all of those who ever, under any and all circumstances, were members of the Communist Party a special constitutional category. To do so would place a not insubstantial class of citizens in the category of constitutional outlaws. It must, therefore, be assumed that "the First Amendment in some circumstances protects an 'ex-Communist' from being compelled to disclose his associational relationships" and, if this be so, it is difficult to conceive of circumstances in which the First Amendment protection should be applied against the investigative power if it is not to be applied in this case.

Here we have the typical youthful, transitory, even naive, rank and file member, whose negation of any knowledge of the core of violence is uncontradicted and who apparently never got sufficiently into the Party councils to find out where the local headquarters were and all of whose activities were under the constant scrutiny of the FBI, whose agent was his superior, collected his dues, drove him to Party meetings and, when there were no other revolutionaries left, met him alone. If, in such a case, full disclosure of these campus capers to the investigators does not sufficiently satisfy the accommodation due the investigative power and the First Amendment does not begin to assert itself, there would seem to be no limit in terms of

minutiae which may not be compulsorily elicited so long as the investigation concerns Communism.

Where this Court has justified invasion of First Amendment rights in instances involving Communists it has been solely because of the aspects of Communist Party doctrine which relate to violent overthrow. The difference in result between the case of *Dennis v. United States*, 341 U. S. 494 (1951), and *Yates v. United States*, 354 U. S. 298 (1957), recognizes differences in belief and action between different members of the Communist Party. In *Dennis*, it was, in effect, found that the defendants, the top leadership of the C. P. U. S. A., advocated violent overthrow of the government as speedily as circumstances would permit. In *Yates*, this Court, with respect to a second echelon of leadership, decided that the evidence established that the defendants merely advocated violent revolution as a *theory*, and that this was protected by the First Amendment.

This petitioner stated that he and his associates did not believe in (much less advocate) violent overthrow and that all they did was to have "bull sessions on Marxism and give out a leaflet or two" [R. 302]. This statement is uncontradicted although the government could have brought forward the group's leader, FBI man Richardson, if it were doubted.

Now, this Court has never placed "bull sessions on Marxism" or "giving out leaflets" outside the protection of the First Amendment. If it be accepted, as it must be on this record, that Deutch and all his associates did no more than this (or that that was all he knew about) where is the "core" of violent revolution, the discovery of which justifies such a congressional inquiry in the first place? If it is the legitimacy of tracking to its lair these violent tenets which permits summoning the citizenry to the seat of government and requiring of them compulsory disclosure of matters which, in the absence of such a core, would be clearly protected as classically political, we can say that in this hearing the committee was taken into the lair; the committee was informed on the core. Here, in short, the central,

secret, arcane data, the need for which justifies the congressional probing into sensitive First Amendment areas, was revealed. How can the withholding of collateral matters, which, if pertinent at all, are so only because of their possible relation to a core of force and violence, be the basis for criminal action, where the core itself is fully revealed. Otherwise the tail wags the dog.

This situation is in no way similar to that in *Barenblatt*. To be sure, it was there *argued on appeal* that Barenblatt's membership was in Communist Party groups which were interested only in the theoretical discussion. But that argument was unsupported by anything in the record. To such a contention it might well be rejoined,—“If so, why did he not tell the committee this?”. Barenblatt had his opportunity before the committee to do what this petitioner did. In the *Barenblatt* case the committee got no information. In the Deutch hearing what the Committee got far exceeded what was withheld, and the Committee obviously could have obtained more information had they cared to ask.

The theory under which otherwise patent infringement of First Amendment rights has been justified in the field of congressional investigations is that in the center of the labyrinth which is the Communist Party sits the menacing Minotaur of force and violence. Whether the potential in our society of this Minotaur is such as to require the erosion of the foundations of our own citadel is not here argued and it is conceded that in the center of the labyrinth there is, in fact, force and violence. But it must be realized that in the torturous alleys of the Party are many cul-de-sacs, some of them well removed from the violent center. And that the Party was compartmented. Also, enough has been revealed so that we know that novitates were not exposed to everything at once. The uncontradicted record establishes that the student group at Cornell was in one of these byways and that the committee was led directly there, even if those in the circle (having been identified by others) were not fingered by this particular guide.

Brief for Petitioner

The nature of petitioner's "membership" is also relevant in the weighing process. Enough is now known about the Communist Party, U. S. A. to know that there is a vast difference in terms of "need to know" and in terms of the relevancy to national security in the information possessed by a Deutch and a Dennis. If there ever was a rank and file member of the Party it was Deutch. He had no card, he didn't know where the headquarters of the Party was [R. 304], and he did not know what the central committee of the Communist Party of Ithaca was. Some measure of the importance of petitioner's information may be gleaned by the fact that the FBI has never even bothered to call upon petitioner for a talk although they generally do so with ex-Communists.

None of this is to say that Deutch should be acquitted because he was a very little Communist in a very little pond, but rather because these are "the particular circumstances" in the light of which this Court, in *Barenblatt*, said the balance between competing private and public interests must be made.

CONCLUSION.

It is respectfully submitted that the decision of the lower Court should be reversed.

Respectfully submitted,

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No. 233

In the Supreme Court of the United States

OCTOBER TERM, 1960

BERNHARD DEUTCH, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE UNITED STATES

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In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 233

BERNHARD DEUTCH, PETITIONER

v.

UNITED STATES OF AMERICA

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the district court (R. 30-34) is reported at 147 F. Supp. 89. The opinion of the court of appeals (R. 330-339) is reported at 280 F. 2d 691.

JURISDICTION

The judgment of the court of appeals was entered on June 18, 1960 (R. 340). The petition for a writ of certiorari was filed on July 13, 1960, and granted on October 10, 1960 (R. 341; 364 U.S. 812). The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether petitioner raised the question of pertinency at the time he was questioned by the subcommittee.
2. Whether, if pertinency was properly raised, the questions asked petitioner were pertinent to the subject under inquiry by the subcommittee and whether petitioner was made aware of that pertinency.
3. Whether the subcommittee's inquiry had a proper legislative purpose.
4. Whether petitioner's rights under the First Amendment were violated.

STATUTE AND RULE INVOLVED

2 U.S.C. 192 (R.S. 102, as amended) and the pertinent portions of Rule XI of the Rules of the House of Representatives are set forth in petitioner's brief on pages 3-4.

STATEMENT

Petitioner was charged in a five-count indictment with having refused to answer five questions asked of him by a subcommittee of the Committee on Un-American Activities of the House of Representatives. Petitioner, having waived trial by jury, was found guilty on four counts (One, Two, Four, and Five) (R. 27-28), and was sentenced to serve ninety days and to pay a fine of one hundred dollars (R. 28-29). Briefly summarized, the evidence at the trial was as follows:

In February 1953, the House Committee on Un-American Activities began a series of hearings on

Communist infiltration into the field of education.¹ From July 13 to 16, 1953, a subcommittee of the full Committee conducted a "general investigation of Communist Party activities" (R. 19) in the Albany, New York area. *Hearings Before the House Committee on Un-American Activities; Investigation of Communist Activities in the Albany, N.Y. Area*, 83d Cong., 1st Sess.,² Parts 1, 2 (Govt. Ex. 1; R. 35). The subcommittee then postponed further hearings in Albany (R. 16-17), until resuming them on April 7-9, 1954 (*Hearings*, Parts 3-6). During the course of the Albany hearings, the subcommittee heard testimony from witnesses showing that, during the period from 1947 to 1953, a Communist cell was active on the Cornell University campus, located in Ithaca, New York, a relatively short distance from Albany, and that students enrolled in the Cornell School of Industrial and Labor Relations were accepting positions with Communist-controlled labor unions.³ As a result, the subcommittee, in April 1954, was desirous of "ascertaining to what extent any of those students leaving on those summer courses were influenced to select Communist-controlled unions for the purposes of their summer work" (R. 23).

¹ See "Opening Statement of the Chairman, February 25, 1953," reproduced in full as the Appendix to the court of appeals' opinion in *Barenblatt v. United States*, 240 F. 2d 875, 884-885 (C.A. D.C.), reversed, 354 U.S. 930, and quoted in the opinion of this Court, 360 U.S. at 131, note 31.

² Hereafter referred to as "*Hearings*."

³ See, e.g., the testimony of John E. Marqusee (*Hearings*, Part 3, pp. 4333-4353; Govt. Ex. 3) and the testimony of the Committee's counsel at petitioner's trial relating to information received by the Committee in executive session from Homer Owen (R. 22-24).

On April 8, 1954, E. Ross Richardson* appeared before the subcommittee at Albany and testified in part as follows (R. 286-287):

Mr. TAVENNER. Were you aware of the existence of a Communist Party group within the faculty at Cornell?

Mr. RICHARDSON. Not as a group. I was only aware of one faculty member who was a Communist Party member, and I did not know who he was.

Mr. TAVENNER. You were never successful in learning his name?

Mr. RICHARDSON. That's correct.

Mr. TAVENNER. How is it that you can testify that there was a person on the faculty who was a member of the Communist Party if you have never learned of his name?

Mr. RICHARDSON. I had one man who was to contact this person, and any information coming from the city committee or from the Communist Party was carried to him through this one person, and anything he had to send back to the Communist Party came back through this one person.

Mr. SCHERER. What was that one person's name?

Mr. RICHARDSON. Bernie Deutch.

Mr. SCHERER. Spell it.

Mr. RICHARDSON. D-e-u-t-c-h.

* Richardson, who attended Cornell Law School from 1950 to 1953, was first approached by the Communist Party on that campus. After reporting that fact to the F.B.I., Richardson accepted an invitation to join the Party, and was assigned to the Labor Youth League. He thereafter continued to report to the F.B.I. (*Hearings*, Part 4, pp. 4356-4357; Govt. Ex. 4).

Mr. TAVENNER. He was a member of the graduate school group of the party?

Mr. RICHARDSON. That's correct.

Mr. SCHERER. Again for the record, What year was it that Bernie Deutch acted as a contact man with the professor?

Mr. RICHARDSON. I know from the early part of 1952 until the Communist Party re-registration, around March of 1953.

Mr. TAVENNER. Were any contributions made to the general work of the party by the unknown individual on the faculty?

Mr. RICHARDSON. At one time one hundred and some dollars was turned over to me from a mysterious source, and I suspected it came from that member.

Mr. SCHERER. You don't know?

Mr. RICHARDSON. I don't know.

Mr. SCHERER. You say "a mysterious source." Was it this Bernie Deutch?

Mr. RICHARDSON. It came through Bernie Deutch.

Mr. SCHERER. Did Bernie Deutch tell you where it was from?

Mr. RICHARDSON. No. He said it came from someone else other than himself.

The petitioner, then a graduate student at the University of Pennsylvania, was subpoenaed to appear before the subcommittee in Albany on April 9, 1954, but was granted a continuance at his request (R. 18). Accompanied by counsel, he appeared in Washington on April 12, 1954 (R. 13, 292). At the outset of petitioner's testimony, counsel for the Committee made the following introductory statement (R. 293):

Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

Petitioner, in response to questioning, told the subcommittee that he attended Cornell University as an undergraduate and graduate student from 1947 to 1953 (R. 293); that, during this period, he was a member of the Communist Party (R. 293-294, 302-303); and that, while in the Party, he worked with Emmanuel Ross Richardson (R. 299-300). Petitioner, who indicated some familiarity with Richardson's testimony (R. 295), was told by the subcommittee what Richardson had testified concerning him (R. 294, 296).

Petitioner refused to answer a question seeking the name of the faculty member for whom he had acted as liaison with the Party leadership (Count One), solely on the ground that it was against his "moral scruples" to answer questions about other people (R. 294). This reason was rejected by the subcommittee as not constituting legal justification, and he was ordered to answer the question (R. 294-295). When petitioner again refused to answer, he was informed that under the terms of the statute authorizing its establishment the Committee was

charged with investigating the extent of the Communist Party's activities including "the existence of the Communist cell" at Cornell (R. 295-296). Petitioner was then asked for the name of the anonymous donor to the Party who had given him the \$100 (Count Two) (R. 296). He refused to answer the question on the ground that "I gave you the reason why I decline to answer regarding names, and this was from a personal friend" (R. 296). He admitted, however, knowing the donor's name (R. 298). When asked whether he was acquainted with Homer Owen⁵ (Count Four), petitioner stated only that "I don't think I should discuss any people from now on * * *" (R. 300). In response to a question as to the name of the student who had solicited his membership in the Party (Count Five), he answered "I don't wish to give his name" (R. 303). No other reason for petitioner's refusals to answer was ever given.⁶

Petitioner appealed his conviction to the Court of Appeals for the District of Columbia Circuit. On May 7, 1958, the Court of Appeals ordered that hearings in this and seven other pending contempt of Congress cases—all of which involved refusals to answer questions asked by congressional committees—"be deferred until after the decision of the Supreme Court

⁵ Homer Owen, a student of industrial relations at Cornell from 1947 or 1948 until 1952, had informed the subcommittee concerning the influencing of students to work with selected Communist-controlled unions for their summer work (R. 22-23).

⁶ It was stipulated at the trial that the Committee reported petitioner's contumacy to the House of Representatives, and the House certified the Committee's report to the United States Attorney for prosecution (R. 12).

in *Barenblatt v. United States* * * *." Following the *Barenblatt* decision (360 U.S. 109) on June 8, 1959, the eight cases were assigned to a single panel of the court below. Supplemental briefs were ordered filed in each case and oral arguments were heard. On June 18, 1960, the court of appeals reversed the convictions in two⁷ of the eight cases, and unanimously affirmed the convictions in the other six,⁸ including that of petitioner.

SUMMARY OF ARGUMENT

All of petitioner's contentions were fully considered in *Barenblatt v. United States*, 360 U.S. 109. That decision is controlling here.

I

A. A series of decisions by this Court has established that a witness charged with contempt cannot raise at his trial issues which he did not raise before the tribunal before which the contempt occurred—at least when the tribunal might have been able to remedy the witness' objection. A congressional committee can remedy a pertinency objection by fully explaining the pertinency of the question to the subject under inquiry or even by changing the subject under

⁷ *Knowles v. United States*, 280 F. 2d 696; *Watson v. United States*, 280 F. 2d 689. The government did not seek review in those cases.

⁸ *Deutch v. United States*, 280 F. 2d 691; *Gojack v. United States*, 280 F. 2d 678; *Russell v. United States*, 280 F. 2d 688; *Shelton v. United States*, 280 F. 2d 701; *Liveright v. United States*, 280 F. 2d 708; *Price v. United States*, 280 F. 2d 715. Petitions for certiorari have been filed in all these cases and are awaiting disposition by the Court.

inquiry, if necessary. Moreover, *Watkins v. United States*, 354 U.S. 178, and *Barenblatt, supra*, establish that a witness cannot raise the issue of pertinency for the first time at his trial. Here, petitioner based his refusal to answer entirely on grounds of the jurisdiction of the subcommittee and moral scruples, and there was not even a suggestion of an objection to pertinency.

B. In any event, the pertinency of the question asked petitioner is clear and this pertinency was made to appear with indisputable clarity to petitioner.

The subject under inquiry when petitioner was questioned was Communist activity in the fields of labor and education, particularly in the Albany, New York area, and even more specifically Communist activity at Cornell University. The questions asked petitioner as to the Cornell faculty member for whom petitioner had acted as liaison with the Party leadership, the name of an anonymous donor to the Party who had given petitioner \$100 while he was at Cornell, and the name of the student who had solicited his membership in the Party, were pertinent on their face to the inquiry into Communist activity at Cornell.

Petitioner suggests that these questions were not pertinent because they concerned the names of other persons engaged in Party activities. But the disclosure of such names was pertinent, and indeed essential, for at least two legitimate purposes: first, to obtain information concerning the number and importance of persons engaged in these Communist activities; and second, to discover new witnesses who

had information concerning Communist activity, not known to the witness before the Committee. Moreover, the pertinency of questions seeking to identify persons involved in Communist activity has been specifically recognized by the lower federal courts, as well as this Court. See *McPhaul v. United States*, 364 U.S. 372, 381.

The record shows conclusively that petitioner was adequately apprised of the pertinency of the questions at the subcommittee hearings. Immediately prior to his testimony, counsel for the Committee specifically informed him that the subject under inquiry was Communist activity of Cornell University. The questions described above were clearly relevant to this subject, especially to a well-educated man who had the advice of counsel. Cf. *Barenblatt, supra*, 360 U.S. at 124-125.

II

A. Petitioner has no standing to claim the protection of the First Amendment.

1. First, he failed to raise this objection at the time he refused to answer the questions before the subcommittee. The only faint suggestion of a possible First Amendment claim was the statement, with regard to a different question, that he was answering "under protest as to its constitutionality." But in order for an objection to be raised at trial, it must be specific, rather than "buried * * * in the context of [a] general challenge to the power of the Subcommittee" (*Barenblatt, supra*, 360 U.S. at 124).

2. Petitioner has no standing to claim the First Amendment rights of other members. He admitted that he was a member of the Communist Party. The questions which he refused to answer involved the Party activities of others.

This Court has held in numerous cases that a litigant cannot invoke the constitutional rights of others. The only exception is when the litigant can be said to represent the persons whose constitutional rights were allegedly violated. Thus, an association can invoke the rights of its members. See *N.A.A.C.P. v. Alabama*, 357 U.S. 449. In contrast, here petitioner's only connection with the unnamed other persons is at most friendship and common membership, in the past, in the Communist Party.

B. The subcommittee was acting pursuant to a valid legislative purpose. The Court held in *Barenblatt* that the Communist Party is not an ordinary political party and that therefore Congress has broad power to legislate as to its activities (360 U.S. at 128). More particularly, *Barenblatt* held that Congress has the power to investigate Communist activities in the field of education. The fact that the questions petitioner refused to answer related to the names of other persons does not detract from the validity of the legislative purpose. As stated above (pp. 9-10), such information was both pertinent and extremely useful to a valid legislative investigation.

C. The balance of individual and governmental interests supports the subcommittee's inquiry. The governmental interests were at least as strong as in

Barenblatt. As in the latter case, the subcommittee was investigating Communist activity in the field of education. Because of the clear connection between the Communist Party and violent overthrow of government, this Court has recognized the strong public interest in this area. The subcommittee had ample basis to believe petitioner had information which would be useful, since another witness had identified petitioner as a Party member and he himself had admitted this fact before the disputed questions were asked. Moreover, petitioner's individual interest in asserting the First Amendment rights of other persons, if he had standing to assert these rights at all, was substantially less than the interest Barenblatt had in claiming his own rights. At the most, petitioner, in claiming the rights of others, stood in the same position as if those persons were claiming their rights for themselves—that is, the same position as Barenblatt was in.

ARGUMENT

Petitioner attacks his conviction on four grounds. First, he suggests that the questions were not pertinent, as a matter of law, to the subject under inquiry. Second, he asserts that the pertinency of the questions to the subject under inquiry was not made sufficiently clear to him at the time he refused to answer. Third, he states that the subcommittee's questions did not have a valid legislative purpose. Fourth, he claims that the questions violated rights under the First Amendment. In our view, all of these

issues were decided, in substantially the same circumstances, by this Court in *Barenblatt v. United States*, 360 U.S. 109. There, the Court held that a witness must raise the issues of pertinency at the time he refuses to answer the questions of a congressional committee and that, in any event, the record showed that the witness knew of the pertinency of the questions asked (*id.* at 123-125); that the investigation of Communist activity in an educational institution had a valid legislative purpose (*id.* at 127-133); and that "the balance between the individual and governmental interests here at stake must be struck in favor of the latter" and therefore the First Amendment was not violated (*id.* at 134).

Petitioner raises these same issues again, but attempts to distinguish *Barenblatt* principally on the ground that the subcommittee here inquired about the Communist activities of other persons than the witness himself. It is true that the Court did not find it necessary to consider in *Barenblatt* the question asked the witness concerning another person (whether he knew Francis Crowley or knew Crowley as a member of the Communist Party). 360 U.S. at 114-115. But, as we will show, such a question is not materially different, either constitutionally or otherwise, from questions concerning the Communist activities of the witness himself which were upheld in *Barenblatt*. We submit therefore that this Court's decision in *Barenblatt* fully answers petitioner's contentions, and is controlling here.

I. PETITIONER, HAVING FAILED TO CHALLENGE THE PERTINENCY OF THE QUESTIONS, CANNOT RAISE THE ISSUE FOR THE FIRST TIME AT HIS TRIAL. IN ANY EVENT, THE QUESTIONS WERE PERTINENT TO THE SUBJECT UNDER INQUIRY AND THIS WAS MADE CLEAR TO PETITIONER

A. THE ISSUE OF PERTINENCY WAS NOT PROPERLY RAISED BEFORE THE SUBCOMMITTEE

Petitioner contends (Pet. Br. 16-28) that the questions which he refused to answer were not pertinent to the subject under inquiry and that, in any event, their pertinency was not made indisputably clear to him. But petitioner failed to raise this objection before the subcommittee and, under this Court's decisions, is precluded from raising it for the first time in the contempt proceeding.

1. In *Hale v. Henkel*, 201 U.S. 43, the witness based his refusal to produce documents on three grounds, one of which being that it was "impossible for him to collect them within the time allowed" (*id.* at 70). The Court indicated that it would not consider this objection because, "[h]ad the witness relied solely upon [this] ground, doubtless the court would have given him the necessary time" (*ibid.*). *United States v. Bryan*, 339 U.S. 323, 334, in commenting on the *Hale* case, stated:

[H]aving refused compliance for other reasons which the lower court could not remedy, the witness could not later complain of its refusal to do a meaningless act—to grant him additional time to gather papers which he had indicated he would not produce in any event.

Similarly, *Bryan* held that a witness who, having been subpoenaed to appear and produce records before a congressional committee, appears but refuses to produce the records, may not raise at his trial for the first time the issue whether a quorum of the committee was present. The Court stated that "[t]he defect in composition of the Committee, if any, was one which could easily have been remedied. * * * For two years, now grown to four, the Committee's investigation was obstructed by an objection which, so far as we are informed, could have been rectified in a few minutes" (339 U.S. at 333). Moreover, it was apparent that this witness "would not have complied with the subpoenas no matter how the Committee had been constituted at the time. * * * Here respondent would have the Committee go through the empty formality of summoning a quorum of its members to gather in solemn conclave to hear her refuse to honor its demands" (*id.* at 333-334). And in *United States v. Fleischman*, 339 U.S. 349, 352, the Court, relying on *Bryan*, stated simply that the issue of a quorum "was raised for the first time at the trial, two years after [the witness'] appearance before the Committee, where she had given other reasons for her failure to produce the documents," and therefore "the defense of lack of quorum was not available to her."

The principles originally laid down by the Court in the *Hale*, *Bryan*, and *Fleischman* cases are fully applicable as to the issue of pertinency in the present case. When a witness challenges the pertinency of a question, the congressional committee or its counsel

can explain more fully the relationship between the question and the subject under inquiry. Indeed, the committee can even change the subject under inquiry if that is necessary to make the question pertinent. Moreover, when a witness relies on other grounds for refusing to answer the question, the pertinency of the question, like the existence of a quorum, is immaterial since the witness would not have answered no matter how clear the committee made the pertinency of the question appear.

Watkins v. United States, 354 U.S. 178, considered the issue of the pertinency of the question to the subject under inquiry by the committee. There, the Court stated that "[t]he final source of evidence as to the 'question under inquiry' is the Chairman's response *when petitioner objected to the questions on the grounds of lack of pertinency*" (354 U.S. at 214; emphasis added). The Court then held that "[u]nless the subject matter has been made to appear with undisputable clarity, it is the duty of the investigative body, *upon objection of the witness on grounds of pertinency*,² to state for the record the subject under inquiry at that time and the manner in which the propounded questions are pertinent thereto" (*id.* at 214-215; emphasis added). The footnote to this sentence reads "Cf. *United States v. Kamin*, 136 F. Supp. 791, 800" (354 U.S., at 215, note 55). At page 800 of the *Kamin* opinion, then District Judge Aldrich emphasized the necessity of a specific objection on grounds of pertinency:

The defendant contends that it is not enough for a question to be pertinent—the witness must

² Petitioner suggests (Pet. Br. 24) that his statement was comparable to *Watkins*. But *Watkins* specifically told the

be informed of the subject matter, so that he may have a definite standard by which to determine whether he should answer. Because if he was not so informed he admittedly indicated no interest, and did not choose to supplement any deficiency in his knowledge by asking either the Chairman or his own counsel, I regard this contention as immaterial.

The requirement that the issue of pertinency be raised before the investigating committee was made absolutely clear by the holding in *Barenblatt v. United States*, *supra*, 360 U.S. at 123-124. Indeed, the Court stated that the issue is not even raised by a memorandum submitted to the committee by a witness saying that "I might wish to . . . challenge the pertinency of the question to the investigation" and quoting, from an opinion of this Court, "language relating to a witness' right to be informed of the pertinency of questions asked him by an administrative agency. These statements cannot, however, be accepted as the equivalent of a pertinency objection. At best, they constituted but a contemplated objection to questions still unasked, and buried as they were in the context of petitioner's general challenge to the power of the Subcommittee they can hardly be considered adequate, within the meaning of what was said in *Watkins* * * * to trigger what would have been the Subcommittee's reciprocal obligation had it been faced with a pertinency objection" (*id.* at 123-124). See also *McPhaul v. United States*, 364 U.S. 372, 380-381.

committee that "I do not believe that such questions are relevant to the work of this committee * * *" (See Pet. Br. 24).

2. Petitioner in the instant case, who appeared before the subcommittee with counsel, did not make even the anticipatory and buried objection to pertinency made by the witness in *Barenblatt* in refusing to answer whether he was a member of the Communist Party. Petitioner made his first objection to answering any of the subcommittee's questions when he was asked whether he had been a member of a group of the Communist Party at Cornell. He stated, after conferring with counsel (R. 293-294):

Mr. DEUTCH. I will answer that question, but only under protest.

I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is the committee's enabling legislation. This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party.

On being asked to identify the faculty member at Cornell, the question in Count One, petitioner answered, again after conferring with counsel (R. 294):

Mr. DEUTCH. Sir, I am perfectly willing to tell you about my own activities, but do you feel I should trade my moral scruples by informing on someone else?

At this point, petitioner was told by Acting Chairman Jackson that moral scruples do not constitute a legal reason for declining to answer the question, and he was directed to answer (R. 294). He answered that "the whole question has been magnified more than it

should have. * * * I do not believe I can answer questions about other people, but only about myself." (R. 294.) After a further colloquy, he stated (R. 296):

Mr. DEUTCH. * * * "The only thing I am saying sir, my challenge is, is it constitutional under Public Law 601.¹⁰

Upon being asked to name the anonymous donor of the \$100 (Count Two), petitioner stated (R. 296):

Mr. DEUTCH. No; this contribution was made—I believe I gave you the reason why I decline to answer regarding names * * *.

Representative Jackson's response to this was again to advise petitioner that a desire to protect friends and acquaintances was not a legal reason for declining to answer the question (R. 296). Petitioner objected to the questions set forth in Counts Four and Five, again after conferring with counsel, on the ground that he did not wish to give other people's names (R. 300-303).

The record of the hearings makes clear that petitioner never suggested that he did not understand the subject under inquiry or how the questions related to this subject. As the court of appeals held, Deutch (R. 338-339):

declined to answer the questions, not on the ground of pertinency or on any other ground except that it was against his "moral scruples" to answer questions about other people. Nor did he claim that he did not understand how

¹⁰ P.L. 601, 79th Cong., 2d Sess., was the authorizing resolution for the Committee (see R. 35-36).

the questions related to the subject under inquiry, or what that subject was. * * *

* * * It would require real stretching of the imagination to read into the statement made by Deutch an objection to pertinency—or anything that would in the slightest degree indicate that he was unaware of the subject under inquiry.

B. THE QUESTIONS WHICH PETITIONER REFUSED TO ANSWER WERE PERTINENT TO THE SUBJECT UNDER INQUIRY AND THIS PERTINENCY WAS MADE TO APPEAR WITH INDISPUTABLE CLARITY TO PETITIONER

As we have just shown, the decisions of this Court establish that a witness cannot raise the issue of pertinency for the first time at his contempt trial. In any event, however, here as in *Barenblatt* (360 U.S. at 124-125), petitioner had been fully apprised of the pertinency of the questions at the time he refused to answer them.

In *Watkins v. United States*, *supra*, 354 U.S. at 214-215, the Court held:

Unless the subject matter has been made to appear with undisputable clarity, it is the duty of the investigative body, upon objection of the witness on grounds of pertinency, to state for the record the subject under inquiry at that time and the manner in which the propounded questions are pertinent thereto. To be meaningful, the explanation must describe what the topic under inquiry is and the connective reasoning whereby the precise questions relate to it.

Among the sources of such an explanation, the Court noted the resolution authorizing the subcommittee hearings, the opening statement of the Chairman at

the hearings, the testimony of previous and subsequent witnesses, and the response of the subcommittee when the witness refused to answer the questions on grounds of lack of pertinency (*id.* at 211-214). In *Barenblatt*, 360 U.S. at 124-125, the latter three factors were relied on to show that the witness was apprised of the subject under investigation. In the instant case, petitioner was apprised of the subject under inquiry by the statements of Committee counsel and the Acting Chairman, as well as by the questions asked him which preceded the questions he refused to answer.

1. The pertinency of the question which petitioner refused to answer is clear as a matter of law. As the district court found, the subcommittee was investigating the general subject of "the infiltration of Communism into educational and labor fields" (R. 32; see also R. 33). This was the same general subject of inquiry as in *Barenblatt*. Petitioner was subpoenaed to testify at a particular hearing pursuing this investigation with regard to the Albany area, which heard testimony concerning Communist activity at Cornell University (see *supra*, pp. 3-6). Petitioner received a continuance at his request and subsequently appeared at a hearing in Washington. Committee counsel informed him at the beginning of his testimony that the precise subject which the subcommittee intended to question him about was Communist activity at Cornell University (see *supra*, p. 6). This specific subject was a more carefully defined portion of the broader subjects of Communist

activity in the educational and labor field generally and in the Albany area in particular."

The questions seeking the name of the Cornell faculty member for whom petitioner had acted as liaison with the Party leadership (Count One), the name of the anonymous donor to the Party who had given him \$100 while he was at Cornell (Count Two), and the name of the student who had solicited his membership in the Party (Count Five) were pertinent on

"Petitioner complains (Pet. Br. 29-40) of a variance between the "subject under inquiry" as proved at the trial and as urged by the government on appeal, in that at the trial the government proved the "subject" was Communist activities in the Albany area and/or Communism in the field of labor, not Communism in the field of education. This "variance" argument, even if consequential, is completely unsupported by the record. In his opening statement at the trial, the prosecutor pointed out that the subcommittee was interested, not only in Communist infiltration generally, but also "in the field of labor and in the field of education" (Tr. 9). The government introduced the portion of the transcript of the subcommittee hearings containing the statement of Committee counsel that the subject under investigation was Communist activity at Cornell (R. 293). The trial judge, as finder of fact, found that the "Committee was investigating the infiltration of Communism into educational and labor fields" (R. 32; see also R. 33). The government's main brief in the court of appeals quoted the finding of the trial court as the subject under inquiry (p. 3), stated that the subcommittee was interested in discovering the extent to which students of industrial relations at Cornell were influenced to select Communist-controlled unions for summer work (pp. 4-5), and then demonstrated at length that Communist activity in labor or education was being investigated by the subcommittee when petitioner testified (pp. 15-17). And the government's reply memorandum in the court of appeals asserted (p. 5): "The precise topic of the investigation here * * * was Communist activities at Cornell University * * *"

their face to the subject of Communist activity at Cornell. The question concerning whether petitioner was acquainted with Homer Owen (Count Four), while perhaps not pertinent on its face, was in fact pertinent as the record of petitioner's trial showed. A previous witness, Ross Richardson, had informed the subcommittee that Owen, a student at Cornell from 1947 or 1948 to 1952 (R. 22), was one of six members of a Communist graduate group (R. 284). Petitioner, on the other hand, told the subcommittee that he was the only person in the group (R. 299). Thus, the question concerning Homer Owen was an introductory question preliminary to further questions inquiring into Owen's Communist activity at Cornell¹² and into the discrepancy between petitioner's and Richardson's testimony.

Petitioner argues (Pet. Br. 41-43) that no legislative purpose was served by asking petitioner about the names of his associates in the Party. But while this contention is framed in terms of legislative purpose, it is in reality a claim that these questions were not pertinent to the subject under inquiry (see Pet. Br. 25). In fact, however, the disclosure of other persons engaged in Communist activities is, and was in this case, pertinent for at least two legitimate purposes; first, to obtain information concerning the number and importance of persons engaged in the Communist activity under inquiry; and, second, to discover new witnesses who might have information

¹² While Owen had testified before the Committee in executive session (R. 22-24), petitioner's knowledge of Owen's activities would test the accuracy and completeness of Owen's testimony.

concerning Communist activity not known to the witness before the committee.

We know of no judicial decision holding that personnel is not pertinent to the subject of Communist activity. On the contrary, the Court of Appeals for the District of Columbia Circuit has explicitly held in *Barsky v. United States*, 167 F. 2d 241, 246 (C.A. D.C.), certiorari denied, 334 U.S. 843:

If Congress has power to inquire into the subjects of Communism and the Communist Party, it has power to identify the individuals who believe in Communism and those who belong to the party. The nature and scope of the program and activities depend in large measure upon the character and number of their adherents. Personnel is part of the subject. * * *

Accord, *Morford v. United States*, 176 F. 2d 54, 57 (C.A. D.C.), reversed on other grounds, 339 U.S. 258. Similarly, in *McPhaul v. United States*, 364 U.S. 372, 381, this Court recently held, with regard to the pertinency of records subpoenaed from the Civil Rights Congress:

It would seem clear enough that the auspices under which the Civil Rights Congress was organized, the identity and extent of its affiliations, the source of its funds and to whom distributed would be prime considerations in determining whether the organization was being used by the Communists in the Detroit area. If the Civil Rights Congress was affiliated with known Communist organizations, or if its funds were received from such organizations or were used to support Communist activities in the Detroit area, those facts, it is reasonable to suppose, would be shown by the records called

for by the subpoena, and those facts would be highly pertinent to the Subcommittee's inquiry [into Communist activity in the Detroit area]. [Emphasis added.]

Cf. *United States v. Bryan*, 339 U.S. 323; *United States v. Fleischman*, 339 U.S. 349. In short, both logically and by judicial precedent, the disclosure of names of other persons engaged in the Communist activity under scrutiny is just as pertinent to an investigation of an aspect of Communist activity as is the disclosure whether the witness himself is a Party member.

2. The record shows conclusively that petitioner was adequately apprised of the pertinency of the questions at the subcommittee hearings. Immediately prior to his testimony before the subcommittee, counsel for the Committee specifically informed him that the subject under inquiry was the existence of Communist groups at Cornell University (see *supra*, p. 6). Counsel explained that the subcommittee wished to question petitioner because it had information that he had participated in at least one of these groups (R. 293). Except for objections to the jurisdiction and constitutionality of the Committee (see *supra*, p. 18), petitioner stood mute in the face of counsel's statement as to why he had been called as a witness. Petitioner was informed that Richardson had identified him as the individual who had acted as liaison between the Communist campus group and a member of

the faculty (R. 294). Petitioner was then asked a series of questions which directly and obviously related to the activity of Communist groups at Cornell: *e.g.*, whether he was a member of the Communist Party while a student at Cornell; whether he was a member of the Party's central committee at Cornell; how many persons attended Party meetings there (R. 298-299). Among the questions which directly and obviously related to the subject under inquiry were at least three which petitioner refused to answer and for which he was convicted for contempt: the name of the faculty member for whom he had acted as liaison with the Party leadership; the name of the anonymous donor to the Party; and the student who successfully solicited his Party membership¹³ (see *supra*, pp. 18-19). The pertinency of these questions to the subject of Communist activity at Cornell was clear beyond doubt, especially to a well-educated man with both a Bachelor's and a Master's degree (R. 293), who had the advice of counsel. Cf. *Barenblatt v. United States, supra*, 360 U.S. at 124-125.

¹³ The pertinency of the question concerning Homer Owen (Count Four of the indictment) is perhaps less obvious on its face. Petitioner, however, had indicated that he had some familiarity with the testimony of Ross Richardson (R. 295), who identified Owen as a member of the Communist graduate group at Cornell (R. 284). In any event, if petitioner understood the pertinency of any one of the four questions on which he was convicted, this would be sufficient to sustain his conviction and sentence. *Barenblatt v. United States, supra*, 360 U.S. at 126, note 25.

II. PETITIONER HAS NO STANDING TO CLAIM THE PROTECTION OF THE FIRST AMENDMENT. IN ANY EVENT, THE SUBCOMMITTEE'S INVESTIGATION DID NOT VIOLATE THAT PROVISION OF THE CONSTITUTION

In *Barenblatt v. United States, supra*, this Court considered, *inter alia*, whether a question asked by a congressional committee as to a witness' own membership in the Communist Party violated the First Amendment (360 U.S. at 126). In deciding this issue, the Court held (*ibid.*):

[T]he protections of the First Amendment, unlike a proper claim of the privilege against self-incrimination under the Fifth Amendment, do not afford a witness the right to resist inquiry in all circumstances. Where First Amendment rights are asserted to bar governmental interrogation resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown. * * *

To strike this balance, the courts must first determine whether the "investigation was related to a valid legislative purpose, for Congress may not constitutionally require an individual to disclose his political relationships or other private affairs except in relation to such a purpose" (*id.* at 127). In this case, as in *Barenblatt*, there was a valid legislative purpose and the public interest predominates.

A. PETITIONER HAS NO STANDING TO INVOKE THE FIRST AMENDMENT

While we will discuss petitioner's First Amendment claim on the merits (*infra*, pp. 36-43), we submit that petitioner has no standing to raise this issue.

First, petitioner failed to raise the issue at the time he testified before the subcommittee; and, second, petitioner is in reality raising the First Amendment rights of other persons with whom he has no sufficient connection, not his own rights.

1. *Petitioner failed to rely on the First Amendment before the subcommittee.*—As we have shown above with regard to the issue of pertinency (pp. 18–20), petitioner relied primarily, in refusing to answer the questions on which he was convicted, on his “moral scruples” against disclosing the names of other persons. The only intimations, no matter how faint, of a First Amendment claim were two statements that the subcommittee was acting unconstitutionally (see *supra*, pp. 18–19). This general constitutional objection, which was made with the advice of counsel (R. 293), in no way specified or even suggested that petitioner was claiming any rights under the First Amendment.

We have already pointed out (*supra*, pp. 14–17) that it is now well established by decisions of this Court that a witness before a congressional committee can raise at his trial for contempt only those objections which he stated to the committee at the time he refused to answer its questions. In *Ullmann v. United States*, 350 U.S. 422, 439, note 15, this Court likewise refused to consider a First Amendment claim which was not raised by the witness when questions were propounded before a grand jury. There, the Court stated, in language which is equally applicable here (*ibid.*):

Petitioner contends that some of the questions which he was asked are objectionable because

they require testimony that is protected by the First Amendment. But it is every man's duty to give testimony before a duly constituted tribunal unless he invokes some valid legal exemption in withholding it. * * *

And the *Barenblatt* case demonstrates that objections, in order to be raised at trial, must be specific, rather than "buried * * * in the context of [a] general challenge to the power of the Subcommittee" (360 U.S. at 124). Applying these standards to the instant case, petitioner's general objection to the subcommittee did not raise a First Amendment claim which he could subsequently assert at his trial.

2. *Petitioner cannot claim the First Amendment rights of other persons.*—Petitioner admitted that he was a member of the Communist Party and only refused to answer questions concerning the activities of others. These questions did not interfere with his own rights of speech and association as protected by the First Amendment since any interference with those rights¹⁴ had already occurred when he testified as to his own activities. While conceivably he might be reluctant to associate with others if he knew that he would have to divulge their names to a congressional committee, the reason for this reluctance was his own moral scruples against testifying about other persons. But "moral scruples," if not based on some valid legal ground, are not legal justification for refusing to answer. Insofar as inquiry by the subcommittee might inhibit petitioner's own

¹⁴ We do not concede that there was any invalid interference with such rights; and *Barenblatt* holds that there was none.

speech or association, it is entirely as a result of petitioner's moral beliefs which are not protected by the First Amendment. Insofar as the questions asked petitioner might involve rights which are protected by the First Amendment, they would be the rights of association and speech of other persons who conceivably might be inhibited by the knowledge that their activities could be revealed by colleagues to an investigating committee.

In numerous cases, this Court has established that only persons who are adversely affected by a statute which is directly applicable to themselves have standing to question its constitutionality. This is an application of the constitutional principle that the federal courts have power only to decide "cases" or "controversies." See, *e.g.*, *Tyler v. Judges of the Court of Registration*, 179 U.S. 405, 406; *Massachusetts v. Mellon*, 262 U.S. 447, 487; *Gange Lumber Co. v. Rowley*, 326 U.S. 295, 305-308; *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347-348 (Mr. Justice Brandeis concurring); *Coleman v. Miller*, 307 U.S. 433, 460-470 (Mr. Justice Frankfurter concurring). There is no doubt here that the governmental action directly affected petitioner and that therefore a case or controversy is involved. The true issue, instead, is whether petitioner can raise in his defense a constitutional right which belongs to other persons.

This Court has also long ago settled that, in the absence of exceptional circumstances, a litigant can raise only his own constitutional rights. For example, a defendant cannot complain of an illegal search and seizure under the Fourth Amendment unless he

himself has been injured by it. *Jones v. United States*, 362 U.S. 257, 260-267.¹⁵ Similarly, the Fifth Amendment privilege against self-incrimination is exclusively personal. See *Hale v. Henkel*, 201 U.S. 43; *Rogers v. United States*, 340 U.S. 367. In *Tileston v. Ullman*, 318 U.S. 44, the Court unanimously dismissed an appeal by a physician from a decision of a state court upholding the constitutionality of a statute prohibiting the use of drugs or instruments to prevent contraception and the giving of assistance in their use (*id.* at 46):

We are of the opinion that the proceedings in the state courts present no constitutional question which appellant has standing to assert. The sole constitutional attack upon the statutes under the Fourteenth Amendment is confined to their deprivation of life—obviously not appellant's but his patients'. There is no allegation or proof that appellant's life is in danger. His patients are not parties to this proceeding and there is no basis on which we can say that he has standing to secure an adjudication of his patients' constitutional right to life, which they do not assert in their own behalf. *Cronin v. Adams*, 192 U.S. 108, 114; *Standard Stock Food Co. v. Wright*, 225 U.S. 540; *Bosley v. McLaughlin*, 236 U.S. 385, 395; *Blair v. United States*, 250 U.S. 273; *The Winnebago*, 205 U.S. 354, 360; *Davis & Farnum-Mfg. Co. v. Los Angeles*, 189 U.S. 267, 220. * * *

¹⁵ *Jones* held that a person legitimately on the premises at the time of the allegedly illegal search and seizure is sufficiently injured to claim the Fourth Amendment even though he was only a "guest" or "invitee."

These principles of constitutional adjudication necessarily apply not only when a statute is involved, but when any governmental action, including a legislative investigation, is challenged.

The only significant exception to the rule that a litigant can raise only his own constitutional rights against allegedly invalid governmental action is when the litigant can properly be said to represent the persons whose constitutional rights were allegedly violated, and, in addition, the litigant himself was seriously injured. In *Pierce v. Society of Sisters*, 268 U.S. 510, the state had passed a law requiring parents to send their children to public schools. The Court allowed two corporations to invoke the Fourteenth Amendment rights of patrons of their schools in order to protect their own business and property from destruction by unconstitutional governmental action taken against their patrons. *Id.* at 535. In *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, the Court considered a claim that plaintiff organizations were deprived of due process by the action of the Attorney General in labelling them as "Communist" without notice or hearing. The resulting lists were turned over to the Loyalty Review Board for use in connection with determinations of disloyalty of government employees. In the circumstances, two concurring opinions indicated that an organization could raise the constitutional rights of its members. Mr. Justice Frankfurter stated (*id.* at 159):

The threat which it carries for those members who are, or propose to become, federal employees makes it not a finicky or tenuous claim

to object to the interference with their opportunities to retain or secure such employment as members. The membership relation is as substantial as that protected in *Traux v. Raich*¹⁶ and *Pierce v. Society of Sisters* * * *.

And Mr. Justice Jackson similarly stated (*id.* at 187):

[T]he Government has lumped all the members' interests in the organization so that condemnation of the one will reach all. The Government proceeds on the basis that each of these associations is so identical with its members that the subversive purpose and intents of the one may be attributed to and made conclusive upon the other. Having adopted this procedure in the Executive Department, I think the Government can hardly ask the Judicial Department to deny the standing of the organizations to vindicate its members' rights.

In *N.A.A.C.P. v. Alabama*, 357 U.S. 449, 458-460, the Court adopted the reasoning of the two concurring opinions in *Joint Anti-Fascist* in holding unconstitutional the state's attempt to compel the Association to disclose its membership list. The Court repeated

¹⁶ In *Traux v. Raich*, 239 U.S. 33, a state statute prohibited businesses from employing more than twenty percent aliens. The Court upheld the right of an alien-employee to enjoin officers of the state from enforcing the statute even though the statute penalized only employers. The issue was of the kind, not involved in the instant case, as to whether the litigant was sufficiently affected by the statute to challenge it (see *supra*, p. 30), and the Court held that the alien was directly affected. There was no question whether the alien could raise the constitutional rights of another person since the right to work and earn a livelihood, which was the constitutional right invoked, was the alien's own right, not the employer's.

its settled rule embodied in *Tileston v. Ullman, supra*, and then held that this rule was not violated by allowing an association to assert the constitutional rights of its own members to freedom of association, at least when there was no other way these rights could be effectively vindicated (357 U.S. at 459-460):

Petitioner is the appropriate party to assert these rights, because it and its members are in every practical sense identical. The Association * * * is but the medium through which its individual members seek to make more effective the expression of their own views. The reasonable likelihood that the Association itself through diminished financial support and membership may be adversely affected if production is compelled is a further factor pointing toward our holding that petitioner has standing to complain of the production order on behalf of its members. Cf. *Pierce v. Society of Sisters*, * * *.

Subsequently, in *Uphaus v. Wyman*, 360 U.S. 72, the Court was faced with the analogous problem whether the director of a summer camp could assert the constitutional rights of his guests in refusing to comply with a state order to produce the names of the guests. The Court, however, refused to decide this issue (*id.* at 77-78) and held that Uphaus' claims, assuming he had standing to raise them, were invalid on their merits.

We submit that petitioner's assertion of the rights of the unknown faculty member, the anonymous donor, Homer Owen, and the person who had solicited his Party membership goes far beyond the circum-

stance of *Pierce*, *Joint Anti-Fascist*, *N.A.A.C.P.*, and *Uphaus*. In *Joint Anti-Fascist* and *N.A.A.C.P.*, organizations were asserting the rights of their own members on matters of common concern. In *Pierce*, where the individuals did not actually belong to the organizations which brought the action, nevertheless the organizations and the individuals (schools and their patrons) were integrally related, especially with regard to the impact of the particular statute and constitutional right involved in the case. Moreover, the organizations were threatened with direct and severe harm, indeed destruction, if the statute were enforced. Similarly, in *Uphaus*, while the individuals involved were, strictly speaking, guests and not members of an organization, they too were integrally related to the organization. And *Uphaus*, as the executive director of the organization, was asserting the right of the organization to represent its guests in a matter of common concern. In contrast, in the instant case, petitioner is, of course, not an organization to which the third persons belonged, or of which they were guests or patrons; nor is he an officer who can claim to represent such an organization. Petitioner's only connection with the unnamed third persons is at most one of friendship and common membership, in the recent past, in the Communist Party. This is not a sufficiently close relationship to allow him to raise and vindicate their rights. If it were held to be adequate, large inroads would be made in the settled principle that a litigant is limited to the prosecution of his own rights.

B. THE SUBCOMMITTEE WAS ACTING PURSUANT TO A VALID
LEGISLATIVE PURPOSE

Even if the Court were to consider the First Amendment rights of other persons at the instance of petitioner, the Court should hold that such rights were not violated.

When it subpoenaed and sought to question petitioner, the subcommittee had under inquiry the subject of "infiltration of Communism into educational and labor fields" in the Albany, New York, area, and specifically at Cornell University (see *supra*, pp. 21-22). Any question whether Congress has the power to investigate Communist activity in the field of education has been determined by this Court's holding in *Barenblatt v. United States*, *supra*. There, the Court first stated generally that "Congress has wide power to legislate in the field of Communist activity in this Country, and to conduct appropriate investigations in aid thereof" (360 U.S. at 127), and that "[j]ustification for its exercise in turn rests on the long and widely accepted view that the tenets of the Communist Party include the ultimate overthrow of the Government of the United States by force and violence" (*id.* at 128). The Court then turned to the specific issue which was before it, and which is likewise involved in the instant case, and held that "investigatory power * * * is not to be denied Congress solely because the field of education is involved" (*id.* at 129).

In addition, the Communist activity in the field of education involved here was interrelated with Communist activity in the labor field. The subcommittee

had heard testimony that students in the Cornell School of Industrial and Labor Relations were accepting positions with Communist-controlled labor unions (see the Statement, *supra*, p. 3). One of the students in that school, Homer Owen, had been named by Ross Richardson, another witness before the subcommittee, as being a member of the Communist group to which petitioner had also belonged (R. 284).

The power of Congress to investigate Communist activity in the labor field is, if anything, less restricted than its power to investigate such activity in the field of education. As the concurring opinion in *Sweezy v. New Hampshire*, 354 U.S. 234, 261-263, indicated, education may be entitled to particular protection under the First and Fourteenth Amendments. On the other hand, *American Communications Assn. v. Douds*, 339 U.S. 382, upheld broad congressional power to legislate, and a *fortiori* to investigate, concerning Communist activity in labor and industry. Since the subcommittee's investigation of Communist activity in education was so closely interrelated with its investigation of Communist activity in labor unions, its constitutional power and valid legislative purpose is even clearer than in *Barenblatt*.

Petitioner, however, contends (Pet. Br. 41-43) that this case is unlike *Barenblatt* because here the witness was asked the names of his associates. He asserts that "there is no legislative purpose to be served by compelling the disclosure of" "the names of his associates" (Pet. Br. 41). We have shown above (pp. 23-25) that the names of other persons engaged in Communist activity are pertinent

and extremely useful to an investigation of such activity. This Court recognized in *Barenblatt* that Congress has the constitutional power to investigate Communist activity generally because that activity involves serious danger to the country (360 U.S. at 128-129). Since the questions asked petitioner were directly pertinent to an important subject of congressional investigation, the questions had a valid legislative purpose. Cf. *Uphaus v. Wyman*, 360 U.S. 72, upholding the constitutional power of the State, in investigating subversion, to compel disclosure of a list of all the persons who had attended a summer camp. In short, we submit that the same valid legislative purpose which was found in *Barenblatt* was present here.

Petitioner seems to suggest that, whether or not the questions were pertinent, they could not be legislatively useful. But this claim assumes the nature of petitioner's answers; it is not hard to conceive of answers to the subcommittee's questions which would open up whole new areas of investigation and perhaps legislation. And of course the subcommittee's purpose must be judged on the basis of the questions, not on the witness' answers—and particularly not on the basis of answers which were never given. Petitioner's argument is the same type of "constricted view of the nature of the investigatory process" (360 U.S. at 130) which was rejected in *Barenblatt*. The Court emphasized that, in order to inquire of a witness concerning Communist activities, it was not necessary to have proof meeting "[t]he strict requirements of a prosecution under the Smith Act,"

since "of necessity the investigatory process must proceed step by step" (*ibid.*). Similarly, the court below has held in *Townsend v. United States*, 95 F. 2d 352, 361 (C.A. D.C.), certiorari denied, 303 U.S. 664:

A legislative inquiry may be as broad, as searching, and as exhaustive as is necessary to make effective the constitutional powers of Congress. *McGrain v. Daugherty*, 273 U.S. 135 * * *. A judicial inquiry relates to a case, and the evidence to be admissible must be measured by the narrow limits of the pleadings. A legislative inquiry anticipates *all possible cases* which may arise thereunder and the evidence admissible must be responsive to the scope of the inquiry, which generally is very broad. * * * [Emphasis in the original.]

C. THE BALANCE OF INDIVIDUAL AND GOVERNMENTAL INTERESTS
SUPPORTS THE SUBCOMMITTEE'S INQUIRY

This Court in *Barenblatt* considered questions asked by a congressional committee of a college teacher about his own Communist Party activities. The Court concluded that "the balance between the individual and the governmental interests here at stake must be struck in favor of the latter, and * * * therefore the provisions of the First Amendment have not been offended" (360 U.S. at 134). The governmental interests at stake in the present case are at least as strong as those in *Barenblatt*.

The Court has found a "close nexus between the Communist Party and violent overthrow of government" (*Barenblatt*, 360 U.S. at 128) and has therefore upheld broad governmental powers to investigate and legislate on Communist activities. *Id.* at 128.

129; *American Communications Assn. v. Douds*, 339 U.S. 382; *Garner v. Los Angeles Board*, 341 U.S. 716; *Galvan v. Press*, 347 U.S. 522; *Harisiades v. Shaughnessy*, 342 U.S. 580; *Carlson v. Landon*, 342 U.S. 524; *Dennis v. United States*, 341 U.S. 494; *Lerner v. Casey*, 357 U.S. 468. Thus, the strong governmental interest in Communist activity generally has been repeatedly recognized by this Court. The Court has also recognized that the threat of Communist activities and propaganda on the campus and in the classroom is a matter of particular government concern. *Adler v. Board of Education*, 342 U.S. 485, 493. Here, as in *Barenblatt*, the Committee had considerable evidence of Communist activity at a major educational institution (see the Statement, *supra*, pp. 3-6). Moreover, since here the Communist activity in the field of education was found to be interrelated with Communist activity in the labor field, the awareness by Congress of the full extent of those activities becomes all the more important (see *supra*, pp. 36-37).

Barenblatt noted three particular factors in weighing the governmental interest against that of the individual (360 U.S. at 134). First, the Court found that "[t]here is no indication in this record that the Subcommittee was attempting to pillory witnesses" (*ibid.*). Similarly, there is no such indication in the record in the instant case. On the contrary, the subcommittee explained the subject and legislative purpose of the inquiry with clarity (R. 293, 295-296) and patiently explained its reasons for rejecting petition-

er's objections to its jurisdiction and questions (R. 294, 295-296).

Second, the Court found that Barenblatt's "appearance as a witness [did not] follow from indiscriminate dragnet procedures, lacking in probable cause for belief that he possessed information which might be helpful to the Subcommittee" (360 U.S. at 134). Here, the subcommittee had received information that petitioner was a member of a student Communist Party group at Cornell (R. 17, 287); that he was the only member of this group who knew the identity of a person on the faculty who was a member of the Communist Party (R. 17, 287); that petitioner had turned over to a member of the Communist group a contribution of one hundred dollars received by him for Party work from an unknown source (R. 287); and that Homer Owen was a member of the same Party group (R. 284). Moreover, petitioner himself admitted to the subcommittee, before he was asked any of the questions on which he was convicted, that he had been one of a Communist Party group at Cornell.¹⁷ Certainly, this information was a sufficient basis for the subcommittee to ask petitioner to disclose the names of the faculty member, the contributor to the Party, and the person who solicited his membership in the student Party group, and to reveal his acquaintance, if any, with Homer Owen.

Third, in *Barenblatt* the Court said that "the relevancy of the questions put to [Barenblatt] by the Subcommittee is not open to doubt" (360 U.S. at 134).

¹⁷ Petitioner also admitted knowing the name of the anonymous donor when he refused to answer that question (R. 298).

Similarly, here, as shown above (pp. 21-25), the questions asked petitioner were clearly relevant to the subject under inquiry.

In addition to these considerations specifically noted in *Barenblatt*, at least two other factors support the same result here. In that case, the Court sustained questions whether Barenblatt was ever a Party member and whether he belonged to a Party club at least four years before the committee hearings (360 U.S. at 114, 126 at note 25). Here, as petitioner admitted, less than a year had elapsed from the end of the Communist activities at Cornell as to which he was questioned until the time he refused to answer the questions at the subcommittee's hearing (R. 298-299). Thus, if petitioner had answered the questions asked him, the subcommittee would have received timely, as well as probably important, information.

The second additional factor is that the private interests here are, at best, no greater than in *Barenblatt*, and are probably weaker. If petitioner has standing to assert the First Amendment rights of other persons (but see *supra*, pp. 29-35), his individual interest in this assertion is substantially less than the interest Barenblatt had in claiming his own First Amendment rights. Petitioner, because of his moral scruples, has chosen to protect what he believes to be the First Amendment rights of other persons who have apparently no more intimate connection with himself than friendship. Barenblatt, in contrast, had the direct interest of protecting his own privacy of belief, association, and activity. Insofar as petitioner is concerned, therefore, there is even more reason in the

circumstances of this case than in *Barenblatt* to strike the balance in favor of the governmental, rather than individual, interest. And insofar as the case is viewed from the standpoint of the other persons, their interest in preventing disclosure through third parties (such as petitioner) of their beliefs and activities is less than their interest in not being compelled themselves to testify as to those matters. But *Barenblatt* holds that if these others—the faculty member, the donor, the solicitor of Party membership, Homer Owen—were themselves called before the subcommittee, they would have to answer such questions as to their own conduct. At the very most, petitioner, in claiming the rights of these others, stands in the same position as if they were claiming their rights for themselves—that is, the same position as *Barenblatt* was in. Thus, this Court's decision in *Barenblatt* is, we believe, inescapably controlling.

CONCLUSION

For the foregoing reasons, we respectfully submit that the judgment of the court of appeals should be affirmed.

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FEBRUARY 1961.

SUPREME COURT OF THE UNITED STATES

No. 233.—OCTOBER TERM, 1960.

Bernhard Deutch, Petitioner,	}	On Writ of Certiorari to the United States Court of Appeals for the District of Colum- bia Circuit.
v.		
United States.		

[June 12, 1961.]

MR. JUSTICE STEWART delivered the opinion of the Court.

Once again we are called upon to review a criminal conviction for refusal to answer questions before a subcommittee of the Committee on Un-American Activities of the House of Representatives.¹ See *Quinn v. United States*, 349 U. S. 155; *Emspak v. United States*, 349 U. S. 190; *Watkins v. United States*, 354 U. S. 178; *Barenblatt v. United States*, 360 U. S. 109; *Wilkinson v. United States*, 365 U. S. 399; *Braden v. United States*, 365 U. S. 431. The petitioner was brought to trial in the District Court for the District of Columbia upon an indictment which charged that he had violated 2 U. S. C. § 192 by refusing to answer five questions "which were pertinent to

¹ "Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months." 2 U. S. C. § 192.

the question then under inquiry" by the subcommittee. He waived a jury and was convicted upon four of the five counts of the indictment. The judgment was affirmed by the Court of Appeals, 280 F. 2d 691, and we brought the case here because of doubt as to the validity of the conviction in the light of our previous decisions.² 364 U. S. 812. A careful review of the trial record convinces us that the District Court should have ordered an acquittal.

At the trial the Government's case consisted largely of documentary evidence. That evidence showed that a subcommittee of the House Committee on Un-American Activities conducted hearings in Albany, New York, in July of 1953, and again in early April of 1954. The petitioner was not present on either occasion. He was subpoenaed to appear before the subcommittee in Albany on April 9, 1954, but, at the request of his counsel, it was agreed that he should appear instead before the subcommittee three days later in the Old House Office Building in Washington, D. C.

He appeared there on the appointed day, accompanied by counsel, and without further ado his interrogation began. The petitioner freely answered all preliminary questions, revealing that he was then twenty-four years old and a graduate student at the University of Pennsylvania. He stated that his early education had been in the public schools of Brooklyn, New York, from where he had gone to Cornell University in 1947 for four years as an undergraduate and two additional years as a graduate student.

² See, in addition to the cases cited in the text, *supra*: *Sinclair v. United States*, 279 U. S. 263; *United States v. Bryan*, 339 U. S. 323; *United States v. Fleischman*, 339 U. S. 349; *United States v. Rumely*, 345 U. S. 41; *Sacher v. United States*, 356 U. S. 576; *Flazer v. United States*, 358 U. S. 147. See also *McPhaul v. United States*, 364 U. S. 372.

The subcommittee's counsel then made the following statement:

"Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you certain matters relating to your activity there.

"Were you a member of a group of the Communist Party at Cornell?"

The petitioner answered, "under protest," that he had indeed been a member of the Communist Party while at Cornell.³ He then testified freely and without further objection as to his own activities and associations. He stated that "from the age of 13 or 14 I had read many books on Marxism and at that time was very much impressed with trying to solve certain of the injustices we have nowadays." He said that when he got to college "I felt if I had ideas I shouldn't be half pregnant about them, so when I came to college I was approached and joined." He stated that the approach to join the Party had been made by a student.

As to the general nature of his Communist Party activities at Cornell, he said "about all that happened were bull

³ "I will answer that question, but only under protest.

"I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is the committee's enabling legislation. This question, or any similar questions involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party."

sessions on Marxism, and some activities like giving out a leaflet or two. The people I met didn't advocate the overthrowing of the Government by force and violence, and if they had, I wouldn't have allowed it." He testified that he had known one faculty member at Cornell who was a Communist, but that this person had quit the Party. He stated that he had once received from "a personal friend," who was not connected with the Cornell faculty, a \$100 contribution to give to the Party. He stated that he had been the only graduate student at Cornell who was a Communist, and that, as the "head" (and lone member) of the "graduate group," he had attended meetings in a private house where a "maximum of 4 or 5" people were present. Many of his answers indicated a lack of awareness of the details of Communist activities at Cornell.* The petitioner testified that as of the time

* The following colloquies are typical:

"Mr. Doyle: Who published the leaflets?"

"Mr. Deutch: I believe the Communist Party published them.

"Mr. Doyle: What Communist Party? Where did you get the leaflets? From the national headquarters?"

"Mr. Deutch: I don't believe so. It was a local branch.

"Mr. Doyle: Where was the office of the local branch from which you got these leaflets?"

"Mr. Deutch: I didn't know where it was. I was just asked to distribute them."

"Mr. Tavenner: Were you ever a member of the Downtown Club of the Communist Party in Ithaca?"

"Mr. Deutch: I don't believe so.

"Mr. Tavenner: Did you attend meetings of that group?"

"Mr. Deutch: No. That is, I don't believe so. The reason I wonder is because that organization became defunct so that there was really no organization. Downtown was Uptown, and there were so few people that I just want to qualify that statement."

"Mr. Scherer: Let me ask you this question. You knew where the meetings were held?"

"Mr. Deutch: I don't believe I know exactly where they were. This is because—since Mr. Richardson drove me there." [Mr. Rich-

of the hearings he was no longer a member of the Communist Party, but he volunteered the information that "[t]o a great extent it is only fair to say I am a Marxist today—I don't want to deny that."

While the petitioner's answers to the many questions put to him about his own activities and conduct were thus fully responsive, he refused to answer five questions he was asked concerning other people. He declined to give the names of the faculty member who had been a Communist, of the friend who had made the \$100 contribution, of the student who had originally approached him about joining the Communist Party, and of the owners of the house where the meetings had been held. He also declined to say whether he was acquainted with one Homer Owen. For his refusal to answer these questions he was indicted, tried, and convicted.⁵

ardson was a law student at Cornell who had joined the Communist Party at the behest of the Federal Bureau of Investigation. See p. —, *infra*.]

⁵The questions, as set out in the five counts of the indictment, were as follows:

"Count One

"The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty; who was a member of the Communist Party. Will you tell us who that member of the faculty was?

"Count Two

"Will you tell the committee, please, the source of that \$100 contribution, if it was made?

"Count Three

"Where were these meetings held?

"Count Four

"Were you acquainted with Homer Owen?

"Count Five

"The witness is directed to give the name of the person by whom he was approached."

The petitioner was convicted on all but Count Three.

The reason which the petitioner gave the subcommittee for his refusal to answer these questions can best be put in his own words:

"Sir, I am perfectly willing to tell about my own activities, but do you feel I should trade my moral scruples by informing on someone else? * * * * *

I can only say that whereas I do not want to be in contempt of the committee, I do not believe I can answer questions about other people, but only about myself. * * * * *

I happen to have been a graduate student—the only one there, and the organization is completely defunct, and the individual you are interested in wasn't even a professor. The magnitude of this is really beyond reason."

The chairman of the subcommittee ruled that it was the petitioner's duty nevertheless to answer the questions:

"That decision does not rest with you as to whether or not the scope of this inquiry—as to whether or not certain individuals are important now or not. That is the responsibility of we Representatives to determine. That determination cannot rest with you. It may be very true that the individual to whom you have referred is no longer a member of the Communist Party. However, that is a supposition on your part—and a supposition which the committee cannot accept. * * * * *

I think that it is only fair to advise the witness—again advise the witness—that any scruples he may have due to a desire to protect friends and acquaintances, is not a legal reason for declining to answer the questions which are now being put to you, and which will be put to you by counsel."

In an effort to prove the pertinence of the questions which the petitioner had refused to answer, the Government offered at the trial the transcripts of the opening

statements of Subcommittee Chairman Kearney at the Albany hearings in 1953 and 1954 and of Subcommittee Chairman Velde at a hearing in Chicago in 1954, as well as an additional portion of the transcript of the 1954 Albany hearing. One witness, the counsel for the Committee on Un-American Activities, testified. A review of this evidence convinces us that the Government failed to prove the charge in the indictment that the questions which the petitioner refused to answer were "pertinent to the question then under inquiry" by the subcommittee before which he appeared.

The Chairman's opening statement at the Albany hearing in 1953 consisted largely of a paraphrase of the Committee's authorizing resolution and a general summary of the Committee's past activities.⁶ The only statement of a specific purpose was as follows:

"The committee, in its course of investigation, came into possession of reliable information indicat-

⁶ "The committee is charged by the Congress of the United States with the responsibility of investigating the extent, character and objects of un-American propaganda activities in the United States, the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries, or of a domestic origin, and attacks the principles of the form of government as guaranteed by our Constitution and all other questions in relation thereto that will aid Congress in any necessary remedial legislation.

"It has been fully established by testimony before this and other congressional committees and before the courts of our land that the Communist Party of the United States is part of an international conspiracy, which is being used as a tool or a weapon by a foreign power to promote its own foreign policy and which has for its objective the overthrow of the governments of all non-Communist countries, resorting to the use of force and violence if necessary. This organization cannot live and expand within the United States except by the promulgation and diffusion of subversive and un-American propaganda designed to win adherence to its cause.

"The first witness in this hearing will testify regarding certain aspects of the worldwide Communist conspiracy, which should dem-

ing Communist Party activities within the Albany area. The committee decided that this information was of such a character as to merit an investigation to determine its nature, extent, character, and objects."

onstrate what a serious matter it is to permit individuals who are subject to the directives and discipline of the Communist Party to be placed in positions of leadership in any functional organization.

"The committee, in its course of investigation, came into possession of reliable information indicating Communist Party activities within the Albany area. The committee decided that this information was of such a character as to merit an investigation to determine its nature, extent, character, and objects.

"Many witnesses have appeared before this committee, sitting in various places throughout the United States, and have revealed their experiences as former Communist Party members. Such testimony has added immeasurably to the sum total of the knowledge, character, extent, and objects of Communist activities in this country.

"Witnesses from Hollywood, labor unions, the legal profession, medical profession, and other groups have made a great contribution to the defense of our country by disclosing to this committee facts within their knowledge.

"In the view of this committee, such testimony should not be held against an individual where it has that character of trustworthiness which convinces one that the witness had completely and finally terminated Communist Party membership and that such testimony has been given in all good faith.

"The committee is not concerned with the political beliefs or opinions of any witness who has been called before it. It is concerned only with the facts showing the extent, character, and objects of the Communist Party activities.

"In keeping with the long-standing policy of this committee, any individual or organization whose name is mentioned during the course of the hearings in such a manner as to adversely affect them shall have an opportunity to appear before the committee for the purpose of making a denial or explanation of any adverse references.

"I would also like at this time, before the beginning of these hearings, to make this announcement to the public: We are here at the discretion of the Congress of the United States, trying to discharge a duty and obligation that has been placed upon us. The public

At the opening of the Albany hearings in 1954 the Chairman stated that the subcommittee would "resume this morning the investigation of Communist Party activities within the capital area." He made clear that the hearings were "a continuation of the open hearings which were conducted in Albany" in 1953. He pointed out that testimony at the 1953 hearings had "related to the efforts of the Communist Party to infiltrate industry and other segments of society in the capital area." "This committee," he said, "... is investigating communism within the field of labor where it has substantial evidence that it exists."

The opening statement of the Chairman of the subcommittee which held hearings in Chicago in 1954 is the same statement that was before this Court in *Watkins v. United States*, 354 U. S. 178, 210. As was pointed out in the *Watkins* opinion, Mr. Velde "did no more than paraphrase the authorizing resolution and give a very general sketch of the past efforts of the Committee."⁷ Moreover, the statement indicated that that subcommittee hearing was directed primarily towards investigation of activities in the Chicago area: "We are here in Chicago, Ill., realizing that this is the center of the great midwestern area of the United States. It cannot be said that subversive infiltration has had a greater, nor a lesser success in infiltrating this important area. The hearings today are the culmination of an investigation that has been conducted by the committee's competent staff and is a part of the

is here by permission of the committee and not by any compulsion. Any attempt or effort on the part of anyone to make a demonstration or audible comment in this hearing room, either favorably or unfavorably, toward the committee's undertaking, or to what any witness may have to say, will not be countenanced by the committee. If such conduct should occur, the officers on duty will be requested to eject the offenders from the hearing room."

⁷ The entire statement of Mr. Velde is set out at 354 U. S. 210-211, n. 49.

committee's intention for holding hearings in various parts of the country."

The transcript of part of the testimony of two witnesses at the 1954 Albany hearings, John Marqusee and Emmanuel Richardson, was also introduced at the petitioner's trial. These transcripts showed that Marqusee's testimony had related primarily to Communist infiltration of a labor union in Schenectady for which he had worked during a summer vacation in 1948.* At that time he had been a student in the New York State School of Industrial and Labor Relations, which, he had testified, was a part of Cornell University. He had told the subcommittee that he had never had any contact with the Communist Party before taking the labor union job. The transcript showed that he had explained that he had taken the job in accordance with the school's requirement "that every student should put forth his efforts in securing a job during the summer, during the intervening summers of his 4-year program, 1 summer with a labor union, 1 with a management group, if possible, and 1 summer with a neutral agency, such as a mediation agency or arbitration service." There was not mention of the Cornell Graduate School, nor of the petitioner, in the transcript of Marqusee's testimony.

The transcript of Richardson's testimony showed that he had testified that as a student at the Cornell Law School in 1950 he had joined the Communist Party at the request of the Federal Bureau of Investigation. He had named several people he had known as Communists on the Cornell campus, including the petitioner and Homer Owen. He had stated that the petitioner had known a member of the Cornell faculty who was a Communist Party member, and that he had once received through the petitioner a contribution to the Party from someone else

* Schenectady is sixteen miles from Albany.

of "one hundred and some dollars." The transcript showed that Richardson had also testified at length concerning Communist infiltration into a labor union in a plant in Syracuse where he had worked during the summers of 1951 and 1952.

After these transcripts had been introduced at the petitioner's trial, the Government called its only witness, Frank S. Tavenner, Jr., who had been the "interrogating attorney" at the Albany hearings and at the petitioner's hearing before the subcommittee in Washington.⁹ Mr. Tavenner emphasized that the hearing in Washington was a continuation of the Albany hearings, which he characterized as "a general investigation of Communist Party activities in what was referred to as the 'Capital Area.'" Under interrogation of government counsel, the witness expressly disclaimed that the purpose of the Washington hearing had been to investigate Communist activities in educational institutions.¹⁰ He was asked what "connection was there between [the subject of the petitioner's testimony] and the investigations entitled 'Albany, New York'?" This question was never answered.

On this record the District Court found the subject under inquiry to be "the infiltration of Communism into educational and labor fields." 147 F. Supp. at 91. The Court of Appeals never stated what it thought the subject under inquiry by the subcommittee was.

⁹ The subcommittee before which the petitioner appeared, "for the purpose of taking this testimony this morning," consisted of Representative Jackson, Acting Chairman, and Representatives Scherer and Doyle. The subcommittee which had conducted the hearings at Albany a few days earlier was composed of Representative Kearney, Chairman, and Representatives Scherer and Walter.

¹⁰ "Q. How does it happen that Mr. Deutch's testimony appears in 'Education—8' if it was a part actually of 'Albany'?"

"A. Well, the staff in the releasing of this testimony at a later date placed it for convenience under the heading of Education."

As our cases make clear, two quite different issues regarding pertinency may be involved in a prosecution under 2 U. S. C. § 192. One issue reflects the requirement of the Due Process Clause of the Fifth Amendment, that the pertinency of the interrogation to the topic under the congressional committee's inquiry must be brought home to the witness at the time the questions are put to him. "Unless the subject matter has been made to appear with undisputable clarity, it is the duty of the investigative body, upon objection of the witness on grounds of pertinency, to state for the record the subject under inquiry at that time and the manner in which the propounded questions are pertinent thereto." *Watkins v. United States*, 354 U. S., at 214-215. See *Barenblatt v. United States*, 360 U. S., at 123-124. The other and different pertinency issue stems from the prosecution's duty at the trial to prove that the questions propounded by the congressional committee were in fact "pertinent to the question under inquiry" by the committee. "Undeniably a conviction for contempt under 2 U. S. C. § 192 cannot stand unless the questions asked are pertinent to the subject matter of the investigation." *Barenblatt, supra*, at 123. "[T]he statute defines the crime as refusal to answer 'any question pertinent to the question under inquiry.' Part of the standard of criminality, therefore, is the pertinency of the questions propounded to the witness." *Watkins, supra*, at 208. See *Wilkinson v. United States*, 365 U. S., at 407-409, 413; *Braden v. United States*, 365 U. S., at 433, 435-436; *Sacher v. United States*, 356 U. S. 576, 577; *Sinclair v. United States*, 279 U. S. 263, 296-297. These two basically different issues must not be blurred by treating them as a single question of "pertinency."

With regard to the first issue, it is evident that the petitioner was not made aware at the time he was questioned of the question then under inquiry nor of how the

questions which were asked related to such a subject. The chairman made no opening statement, and the petitioner heard no other witnesses testify. The resolution creating the subcommittee revealed nothing. It was merely a general resolution authorizing the creation of a subcommittee to act for the Committee. Committee counsel simply advised the petitioner that the committee had previously heard evidence regarding Communist activity at Cornell, and that he proposed to ask the petitioner "certain matters relating to your activity there." As to his own activity there the petitioner freely testified. When the petitioner declined to give the names of other people, no clear explanation of the topic under inquiry was forthcoming.

It is also evident, however, that the thoughts which the petitioner voiced in refusing to answer the questions about other people can hardly be considered as the equivalent of an objection upon the grounds of pertinency. Although he did indicate doubt as to the importance of the questions, the petitioner's main concern was clearly his own conscientious unwillingness to act as an informer. It can hardly be considered, therefore, that the objections which the petitioner made at the time were "adequate, within the meaning of what was said in *Watkins, supra*, at 214-215, to trigger what would have been the Subcommittee's reciprocal obligation had it been faced with a pertinency objection." *Barenblatt, supra*, at 124.

We need not pursue the matter, however, because, in any event, it is clear that the Government at the trial failed to carry its burden of proving the pertinence of the questions. See *Bowers v. United States*, 202 F. 2d 447, 452. The first step in proving that component of the offense was to show the subject of the subcommittee's inquiry. *Wilkinson v. United States*, 365 U. S., at 407. As related above the Government offered documentary evidence of statements made by the chairman of the sub-

committees at two hearings in Albany which tended to show that those subcommittees were investigating Communist infiltration in the Albany or "capital" area, particularly in the field of labor.¹¹ The Government presented one witness who testified that the petitioner's hearing was a continuation of the Albany hearings, and that the subject of those hearings was Communist infiltration in the Albany area. He disavowed any implication that the topic under inquiry was Communism either at Cornell or in educational institutions generally.

Yet the questions which the petitioner was convicted of refusing to answer obviously had nothing to do with the Albany area or with Communist infiltration into labor unions. It can hardly be seriously contended that Cornell University is in the Albany area. Indeed, we may take judicial notice of the fact that Ithaca is more than one hundred and sixty-five miles from Albany, and in an entirely different economic and geographic area of New York. The petitioner was asked nothing about Albany or the Albany area. So far as the record shows, he knew nothing about that subject. He was asked nothing about labor or labor unions. So far as the record shows, he knew nothing about them. He was asked nothing about any possible connection between Cornell or its graduate school and Communist infiltration in Albany. Yet the petitioner was basically a cooperative witness, and there is nothing in the record to indicate that, except for giving the names of others, he would not have freely answered any inquiry the subcommittee wished to pursue with respect to these subjects. It is true that the transcript of the testimony of two witnesses at the Albany hearings established that, in addition to testifying about Communist infiltration into labor unions in the Albany area,

¹¹ We disregard the evidence indicating that the subject under inquiry was Communist activities in the Chicago area.

they had been willingly led into some testimony about Communist activities by the petitioner and others at Cornell. But that excursion can hardly justify a disregard of the Government's careful proof at the petitioner's trial of what the subject under inquiry actually was. The pertinence of the interrogation of those two witnesses is not before us. The pertinence of the petitioner's interrogation is.

In enacting 2 U. S. C. § 192, the Congress invoked the aid of the federal judicial system to protect itself from contumacious conduct. *Watkins, supra*, at 297. "In fulfillment of their obligation under this statute, the courts must accord to the defendants every right which is guaranteed to defendants in all other criminal cases." *Id.*, at 208. "One of the rightful boasts of Western civilization is that the [prosecution] has the burden of establishing guilt solely on the basis of evidence produced in court and under circumstances assuring an accused all the safeguards of a fair procedure." *Irvin v. Dowd*, — U. S. —, — (concurring opinion). Among these is the presumption of the defendant's innocence. *Sinclair v. United States*, 279 U. S., at 296-297; *Flaxer v. United States*, 358 U. S., at 151. It was incumbent upon the prosecution in this case to prove that the petitioner had committed the offense for which he was indicted. One element of that offense was the pertinence to the subject matter under inquiry of the questions the petitioner refused to answer.¹² We hold, as a matter of law, that there was a failure of such proof in this case. *Sacher v. United States*, 356 U. S. 576; see *Sinclair v. United States*, 279 U. S., at 298-299; *Braden v. United States*, 365 U. S., at 436-437.

We do not decide today any question respecting the power or legislative purpose of this subcommittee of the

¹² This was hardly a matter within the peculiar knowledge of the petitioner. Cf. *McPhaul v. United States*, 364 U. S. 372, 379.

House Un-American Activities Committee. Nor do we reach the large issues stirred by the petitioner's First Amendment claims. Our decision is made within the conventional framework of the federal criminal law, and in accord with its traditional concepts. In a word, we hold only that the Government failed to prove its case.¹³

Reversed.

¹³ For a Court opinion specifically to join issue with what is written in dissent is a practice ordinarily to be avoided. One of the dissenting opinions in this case, however, is largely based upon what are asserted to be "the undisputed relevant facts in the record." Since every litigant is entitled to have his case reviewed on the facts in the record, it is appropriate to state explicitly that:

(1) The record affirmatively shows that neither Marqusee nor Richardson testified, directly or indirectly, to "passing out handbills at strike scenes" or to any "plan of using the prestige and innocent aid of the university's placement service in getting summer jobs with labor unions in upper New York," or anywhere else.

(2) The record affirmatively shows that at no time did the subcommittee, or anyone on its behalf, "advise" the petitioner, or anyone else, that the subcommittee was investigating the infiltration of communism into the "educational and labor fields."

SUPREME COURT OF THE UNITED STATES

No. 233.—OCTOBER TERM, 1960.

Bernhard Deutch, Petitioner,	} On Writ of Certiorari	
v.		to the United States
United States.		Court of Appeals for the District of Colum- bia Circuit.

[June 12, 1961.]

MR. JUSTICE HARLAN, whom MR. JUSTICE FRANKFURTER joins, dissenting.

There is, of course, no doubt that a showing of "pertinency" is an essential part of the Government's burden in a prosecution under 2 U. S. C. § 192. But the nature of this burden may differ, dependent upon what transpired at the Congressional inquiry giving rise to the prosecution.

In a case where the prosecution involves the defendant's refusal to answer a question whose pertinency was explained to him by the Congressional Committee before which he appeared as a witness—following his appropriate objection that the question was not pertinent to the matter "under inquiry," see *Barenblatt v. United States*, 360 U. S. 109, 123-124—the Government must stand or fall upon that explanation. For it would be obviously unfair to allow the Government at trial to prove pertinency on a different theory than was given to the defendant at the time he testified, and on the basis of which he presumably determined that he need not answer the question put.

Where, however, the defendant made no "pertinency" objection as a witness before the Congressional Committee, the Government at trial is left free to satisfy the requirement of pertinency in any way it may choose. The present case is such a one, for, as the Court's opinion

recognizes, the petitioner here made no adequate pertinency objection before the House Un-American Activities Subcommittee.

I dissent because in my opinion the Court's holding that the Government failed to establish "pertinency" rests on a too niggardly view of both the issue and the record. Pertinency, which in the context of an investigatory proceeding is of course a term of wider import than "relevancy" in the context of a trial, is to be judged not in terms of the immediate probative significance of a particular question to the matter under authorized inquiry, but in light of its tendency to elicit information which might be a useful link in the investigatory chain. See *Carroll v. United States*, 16 F. 2d 951, 953. An investigation must proceed "step by step." *Ibid*.

Pertinency is found lacking here because (1) inquiry as to affairs relating to petitioner's student days at Cornell University, situated at Ithaca, N. Y., it is said, was not germane to the Subcommittee's investigation as to Communist activities in "the Albany area;" and (2) in any event, such investigation, the Court finds, related only to alleged Communist infiltration into labor unions and not as well to infiltration "at Cornell or in educational institutions generally." I can agree with neither facet of this holding.

It is quite true, as the Court says, that Ithaca is some 165 miles away from Albany, but it seems to me much too refined to say, as a matter of law, that the trial court could not reasonably determine that Ithaca was within the Subcommittee's terms of reference. Indeed, I think it fair to suggest that in common usage, at least among New Yorkers, "Albany area" would be regarded as aptly descriptive of "upstate" New York. In relation to "pertinency" the matter should not be judged as if it were one of technical jurisdiction or venue.

The other aspect of the Court's holding seems to me equally infirm. Accepting, as I shall, the Court's view that the trial record shows that the Subcommittee, at the relevant time, was investigating only alleged Communist "labor union," and not "educational," infiltration, it seems to me abundantly clear that the lower courts were justified in concluding that all of the questions with respect to which the petitioner was convicted * were pertinent to that matter.

Only shortly before it examined petitioner, the Subcommittee had interrogated two witnesses, Marqusee and Richardson, with respect to their Communist affiliations, their summer work with two labor unions in Schenectady and in Syracuse, and Communist infiltration into such unions, all while they were both students at Cornell. One of these witnesses, Richardson, had testified that during this period he had known the petitioner, and one Homer Owen (Count Four of the indictment), as Communists on the Cornell campus. I do not see why it should now be deemed either that the Subcommittee's interest in petitioner's testimony was confined to "educational infiltration," or that its preliminary questioning of him might not have led to developing information bearing on "labor union infiltration," possibly stemming from student Communist activity on the Cornell campus, had further inquiry not been blocked by petitioner's refusal to answer.

I cannot agree that the decision of this case has been made "within the conventional framework of the federal criminal law." For surely in judging the pertinency of a question put in the course of an otherwise valid Congressional inquiry, as this one is recognized to have been,

* Counts One, Two, Four, and Five of the indictment, set forth in Note 5 of the Court's opinion. *Ante*, p. —.

we should not insist that the inquiring committee follow stricter rules than the courts themselves apply in determining, for example, the sufficiency of a plea of self-incrimination under the "link in the chain" rule, see, *e. g.*, *Blau v. United States*, 340 U. S. 159, or in judging "materiality" in a perjury case, see, *e. g.*, *Carroll v. United States*, *supra*. In reversing this conviction, I think the Court has strayed from the even course of decision.

I would affirm.

SUPREME COURT OF THE UNITED STATES

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[June 12, 1961.]

MR. JUSTICE WHITTAKER, whom MR. JUSTICE CLARK joins, dissenting.

I must say, with all respect, that I think the Court has grossly misread this record. For, after studying and analyzing it, it seems entirely clear to me that not only did petitioner fail to complain of any uncertainty about the subject under inquiry, or object that the questions put to him were not pertinent to the inquiry, but, moreover, at least three of the questions he refused to answer were, on their face, clearly pertinent to the inquiry as a matter of law. Demonstration of these facts can be made only by carefully setting forth in detail the undisputed relevant facts in the record. I now turn to that task.

Acting under the statutory command of Congress to investigate and report to it on the extent, character and objects of "un-American propaganda activities," the "diffusion . . . of subversive . . . propaganda," and "all other questions in relation thereto that would aid Congress in any necessary remedial legislation,"¹ a Subcommittee of the House Committee on Un-American Activities conducted investigatory hearings at Albany, New York, on April 7, 8 and 9, 1954, relative to Communist subversive activities. At those hearings evidence was adduced, principally by the testimony of a former grad-

¹ Public Law 601, 79th Cong., 2d Sess. (60 Stat. 828). Rule XI (A) (2), Rules of the House of Representatives. H. Res. 5, 83d Cong., 1st Sess., 99 Cong. Rec. 15. And see pp. 18, 24.

uate student of the School of Industrial and Labor Relations of Cornell University, one Marqusee, and by one Richardson, a former student in the Cornell Law School, that a Communist cell existed in that University from 1947 through 1953. Those witnesses testified that they were members of that cell, and, in addition to holding frequent secret meetings and occasionally passing out hand bills at strike scenes, the members of the cell formulated and carried out a plan of using the prestige and innocent aid of the university's placement service in getting summer jobs with labor unions in upper New York—particularly, Ithaca, Schenectady and Syracuse—where, by fellow Communists, they were put in contact with the leaders of Communist cells in the unions and there further carried on their Communist activities. Richardson—who was in fact an employee of, and regularly reported to, the Federal Bureau of Investigation—testified that there were at least six members of the Cornell cell and that one of the most active members of it was petitioner, Deutch, and that another was one Homer Owen. Richardson further testified that, in 1952 and 1953, Deutch was the liaison between an undisclosed member of the Cornell faculty and that cell; that, in that period, Deutch collected for and turned over to the cell various contributions, including one for \$100 but declined to name the donor.

Having this and other similar information, the Subcommittee determined to interrogate Deutch, and, locating him in the graduate school of the University of Pennsylvania in Philadelphia, it caused him to be subpoenaed to appear before the Subcommittee at Albany on Friday, April 9, 1954. But, at the request of petitioner's counsel, and for petitioner's convenience, the Subcommittee agreed to take petitioner's testimony in executive session at Washington, D. C., on Monday, April 12, instead of at Albany on Friday, April 9.

At the appointed time, petitioner, accompanied by his counsel appeared before the Subcommittee in Washington and was sworn and interrogated. After asking and obtaining his name, place and date of birth, and his educational background, the committee advised petitioner that the particular aspect of Communist infiltration into the educational and labor fields to be inquired into in his interrogation was the existence and nature of "... a Communist Party group or cell operating among undergraduates ... [and] ... graduates at Cornell ...". Specifically, counsel for the committee stated:

"Mr. Deutch, during hearings at Albany last week, the committee heard testimony regarding the existence of a Communist Party group or cell operating among undergraduates at Cornell University, among certain graduates at Cornell and in the city of Ithaca.

"In connection with that testimony, the committee was informed that you were a member of one or more of those groups. If so, I would like to ask you [about] certain matters relating to your activity there."

The subject under inquiry, so stated, would appear to have been thus made quite plain. It appears to have been entirely plain to petitioner and his counsel, as neither of them then, or at any time during the hearing, manifested any want of understanding of the subject or asked for any further explanation of it.

Thereupon the following immediately occurred:

"[Mr. Tavenner—counsel for the Committee]: Were you a member of the Communist Party at Cornell?"

"Mr. Deutch: I will answer that question, but only under protest

"I wish to register a challenge as to the jurisdiction of this committee under Public Law 601, which is

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the committee's enabling legislation. This question, or any similar question involving my associations, past or future, I am answering, but only under protest as to its constitutionality. But, under your jurisdiction as stated, I answer yes, I was a member of the Communist Party.

"Mr. Tavenner: The committee was advised that a witness by the name of Ross Richardson has stated that you acted as liaison between a Communist Party group on the campus and a member of the faculty at Cornell, and that you knew the name of the member of that faculty, who was a member of the Communist Party.

"Will you tell us who that member of the faculty was?

"Mr. Deutch: Sir, I am perfectly willing to tell you about my own activities, but do you feel I should trade my moral scruples by informing on someone else?

"Mr. Jackson (the acting chairman of the Subcommittee): That is entirely beside the point. You have been asked a question and we must insist that you answer the question or decline to answer it, and your declination must consist of something more than your moral scruples.

"Mr. Deutch: As to details of that, I think the whole question has been magnified more than it should have.

"Mr. Jackson: There is a question pending and the Chair must insist that you answer the question that has been asked.

"Mr. Deutch: I can only say that whereas I do not want to be in contempt of the committee, I do not believe I can answer questions about other people, but only about myself.

"Mr. Jackson: You therefore refuse to answer the question that is pending, is that correct?"

"Mr. Deutch: Yes, sir, . . ."

Petitioner's refusal to answer that question resulted in Count One of his subsequent indictment.

A colloquy then ensued between petitioner and the acting chairman and another member of the Subcommittee and, at the conclusion of which, petitioner stated: "The only thing I am saying, sir, my challenge is, is it constitutional under Public Law 601?"

Thereupon, the following occurred:

"Mr. Tavenner: The committee received testimony from Ross Richardson to the effect that you collected certain donations for the benefit of the Communist Party, and that on one occasion you delivered to him the sum of \$100, without designating to him the source of it. Will you tell the committee, please, the source of that \$100 contribution, if it was made?"

"Mr. Deutch: No; this contribution was made—I believe I gave you the reason why I decline to answer regarding names, and this was from a personal friend."

In reply to the acting chairman's direction to answer the question, petitioner stated:

"Mr. Deutch: I feel like I can't answer that question. I realize there are many problems facing me, and it wasn't an easy decision to make.

"Mr. Jackson: The Chair directs again that you answer.

"Mr. Deutch: I am unable to.

"Mr. Tavenner: . . . I want to know if you refuse to answer the question.

"Mr. Deutch: Yes, sir."

Petitioner's refusal to answer that question resulted in Count Two of his subsequent indictment.

The background of the question, and the question, that resulted in Count Three of the indictment are omitted, because the District Court dismissed that Count, and it is not before us.

Petitioner then refused, though directed by the acting chairman, to answer the question: "Were you acquainted with Homer Ower?" And that refusal resulted in Count Four of his subsequent indictment.

Then, after saying "... so when I came to college I was approached and joined [the Communist Party]," petitioner was asked and answered as follows:

"Mr. Tavenner: By whom were you approached?"

"Mr. Deutch: I was approached by a student. I don't wish to give his name.

"Mr. Jackson: The witness is directed to give the name of the person by whom he was approached.

"Mr. Deutch: I decline to give the name."

Petitioner's refusal to answer that question resulted in Count Five of his indictment.

This, I submit, is a fair statement of the undisputed relevant facts, and it sets forth literally every contention, objection and reason given by petitioner at the hearing for his refusal to answer these questions. Apart from the formal testimony of Mr. Tavenner and some documentary exhibits offered by the Government, this was the evidence that was offered and received at petitioner's contempt trial in the District Court.

I think this record provides an ample basis to support the District Court's finding that, in general, "the Committee was investigating the infiltration of Communism into educational and labor fields," 147 F. Supp., at 91, but whether or not that was the general and announced subject of the hearings is immaterial to this case, because

here petitioner was told, near the beginning of his interrogation and before the relevant questions were propounded, that the subject about which the committee wished to interrogate him was "the existence of a Communist Party group or cell operating among [students] at Cornell University . . . [and] matters relating to [his] activity there." Like the Court of Appeals, I think these "quoted statements made to [petitioner] by the committee counsel and a committee member clearly indicated the object of the inquiry" of petitioner—i.e., the nature and extent of Communist infiltration at Cornell—"and the pertinency of the questions [to that subject]." 280 F. 2d, at 696.

Likewise, it seems entirely clear to me, as it did to the Court of Appeals, that not only did petitioner fail to object to any question on the ground of pertinency but "Never once did he indicate unawareness of the purpose of the hearing, or doubt as to the pertinency of the questions." 280 F. 2d, at 694. It also seems plain to me, as it did to the Court of Appeals, that petitioner "declined to answer the questions, not on the ground of pertinency [but rather on the ground] that it was against his 'moral scruples' to answer questions about other people." 280 F. 2d, at 695. "Nor," as said by the Court of Appeals, "did he claim that he did not understand how the questions related to the subject under inquiry, or what that subject was. On the contrary, it is quite obvious that he recognized that the questions were pertinent to the subject under inquiry, and he based his refusal to answer solely and simply on the fact that he did not wish to give the names of other persons . . . [and] [n]ot until the trial in the District Court, in what appears to be an afterthought, did appellant raise the questions of pertinency and unawareness of the subject matter under inquiry." 280 F. 2d, at 695-696. It thus seems clear to me, as it did to the Court of Appeals, that "the Government has

proved beyond a reasonable doubt that the subject under inquiry and the pertinency of the questions were made to appear at the committee hearing with 'undisputable clarity.' " 280 F. 2d, at 695.

Yet this Court now reverses the findings and judgments of the two courts below upon the sole ground "that the Government at the trial failed to carry its burden of proving the pertinency of the questions." I am compelled by the evidence, respectfully, to disagree.

Here, whether or not petitioner was told or knew that the general subject of the inquiry was "infiltration of Communism into educational and labor fields," he was specifically told that the committee had information that he had recently been a member of a Communist cell at Cornell, had acted as the liaison between an undisclosed member of the faculty and that cell, had collected and turned over to the cell monies from donors whom he refused to identify; and, then, coming specifically to the particular subject about which the committee desired to interrogate him, petitioner was told that the committee wished to interrogate him about "a Communist Party group or cell operating among undergraduates . . . [and] . . . graduates at Cornell and in the city of Ithaca" and "matters relating to [his] activity there." In the second place, the subject under inquiry, thus stated, was not only crystal clear but appears to have been entirely plain to petitioner and his counsel, as neither of them then, or at any time during the hearing, manifested any want of understanding of the subject or asked for any further explanation of it. In the third place, neither petitioner nor his counsel made any objection, or even hinted any objection, to any question put to petitioner at the hearing on the ground of pertinency. Instead, petitioner said: "The only thing I am saying, sir, my challenge is, is it constitutional under Public Law 601?" And, finally, at the trial the Government proved up this specific com-

mittee purpose by introducing into evidence not only the record made at the hearing but also the testimony of the Committee's counsel as to these matters. It is, therefore, passing strange that the Court is unable to find any proof of pertinency of the questions.

In *Watkins v. United States*, 354 U. S. 178, the witness had expressly "objected to the questions on the grounds of lack of pertinency" (*id.*, at 214), and the committee failed to clarify that matter. Hence, we said: "Unless the subject matter has been made to appear with undisputed clarity, it is the duty of the investigative body, upon objection of the witness on grounds of pertinency, to state for the record the subject under inquiry at that time and the manner in which the propounded questions are pertinent thereto." *Id.*, at 214-215. (Emphasis added.) Here, as stated, not only was pertinency made to appear with "undisputable clarity," but moreover petitioner and his counsel gave every indication to the committee that they were aware of the subject under inquiry and made no objection whatever on the ground of pertinency.

In *Barenblatt v. United States*, 360 U. S. 109, the witness had said at the hearing, "I might wish to . . . challenge the pertinency of the question to the investigation," and at another point, in a lengthy written statement, he quoted from this Court's opinion in *Jones v. Securities & Exchange Comm'n*, 298 U. S. 1, language relating to a witness' right to be informed of the pertinency of questions asked him by an administrative agency, and then contended in this Court that his conviction for contempt of Congress should be reversed because the subject of the inquiry and the relevancy of the questions thereto were not made clear. In rejecting that claim, and in contrasting that situation from the one existing in the *Watkins* case, we said: "These statements cannot, however, be accepted as the equivalent of a pertinency objection. At best they constituted but a contemplated objection to

questions still unasked, and buried as they were in the context of petitioner's general challenge to the power of the Subcommittee they can hardly be considered adequate, within the meaning of what we said in *Watkins, supra*, at 214-215, to trigger what would have been the Subcommittee's reciprocal obligation had it been faced with a pertinency objection." 360 U. S., at 123-124.

I also think that this Court's decision in *United States v. Bryan*, 339 U. S. 323, is highly relevant to this question. For it is as true here as it was there, that if petitioner did not understand the subject under inquiry or believed that the questions put to him were not relevant to that subject, "a decent respect for the House of Representatives, by whose authority [he was being questioned], would have required that [he] state [his] reasons for [refusing answers to the questions]." *Id.*, at 332. Such an objection would have given the Subcommittee an opportunity to avoid the blocking of its inquiry by a further and even more detailed explanation of the subject under inquiry and the manner in which the propounded questions were pertinent thereto. "To deny the Committee the opportunity to consider [such an] objection or remedy it is in itself a contempt of its authority and an obstruction of its processes. See *Bevan v. Kreiger*, 289 U. S. 459, 464-465 (1933)." 339 U. S., at 333. Petitioner's failure to make any such objection at the hearing, but raising it, for the first time, at his contempt trial, was patently an attempted "evasion of the duty of one summoned . . . before a congressional committee[, and] cannot be condoned." *Id.*, at 333. And see *McPhaul v. United States*, 364 U. S. 372, 379.

This alone should be, and is for me, a complete answer to petitioner's claim, and to the Court's holding, "that the Government at the trial failed to carry its burden of proving the pertinency of the questions."

But, in addition, at least the questions involved in Counts One, Two and Five of the indictment were, on their face, clearly pertinent to the inquiry as a matter of law.² Petitioner had been specifically told that the particular subject upon which he was to be interrogated was "the existence of a Communist Party group or cell operating among undergraduates . . . [and] . . . graduates at Cornell and in the city of Ithaca," and "matters relating to [his] activity there." Surely the questions involved in Counts One, Two and Five of the Indictment were, on their face, clearly pertinent to that subject. One cannot profitably elaborate a truth so plain. *Barrenblatt v. United States*, 360 U. S. 109, 123-125. And see *McPhaul v. United States*, 364 U. S. 372, 380-381.

For these reasons, I am bound to think that the two courts below were right, and that the judgment should be affirmed.

² Inasmuch as a general sentence was imposed on the four counts of no more than the law allows to be imposed on any one count, it follows that if any one of the four counts was adequately proved by the Government the judgment must be affirmed. *Barenblatt v. United States*, *supra*, at 126, note 25.